So I should thank the Congress of the United States in the name of the people of the District of Columbia that, because of the needle-exchange admonition and bar in our appropriation, we have the highest HIV-AIDS rate in the country.

The interference with needle exchange, of course, is very different from other interference, because it costs lives. It is why we have so many men, women and children who otherwise would not be anywhere close to the AIDS epidemic with AIDS today. That calamity is laid at the feet of this Congress and essentially at the feet of this House, because the Senate asked that the District be able to spend its own local money for needle exchange. It was the House that refused to let the conference report come forward if, in fact, that was included.

There are, of course, other old riders in this bill. The old rider that says all the rest of you in the United States of America can spend your money for abortions for poor women, but not the residents of the District of Columbia. They are American citizens, but we are not about to treat them as first-class citizens. Remember, they are second-class citizens. So they can't spend their own money for abortions for their own poor women.

Perhaps as a matter of ordinary democracy, the most shameful rider says that the District can't spend its own money to lobby for its own rights. This House, not the Senate, the Senate has said, we are not on that boat, let them spend their own money if they want to spend their own money to get full and equal rights in the House and in the Senate, and we think that is their right and prerogative as Americans, but the House said, ''Oh, no, that is not for the District. In my district, we better be able to spend our own money to lobby for anything we want to. Not in the Nation's Capital.''

This is a time of war, this is a time of great and urgent matters in our country. This is not the time when we ought to be considering this appropriation at all. At the same time, I am grateful that, if it had to be here, that before we went home this appropriation was out of Congress; that I am not here in November, that I am not here in December, trying to get my own money out of this Congress.

In past years, the House has been critical of the management of the District of Columbia without conceding that not allowing the District to spend its own money on time has wrapped the District in knots as it tries to balance on last year's budget while waiting for the Congress to release its own money.

The appropriators, the gentleman from New Jersey (Mr. FRELINGHUYSEN), the gentleman from Pennsylvania (Mr. FATTAH), our authorizer, the gentleman from Virginia (Mr. TOM DAVIS), have gone very far in helping us to meet this burden. I appreciate that the Committee on Rules has taken taking us to the next step and making us one of two appropriations to clear the Congress before we clear out of here.

Mr. HASTINGS of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5107.

The SPEAKER pro tempore (Mr. ISAKSON). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

JUSTICE FOR ALL ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 823, I call up the bill (H.R. 5107), to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 823, the bill is considered read for amendment.

The text of H.R. 5107 is as follows:

H.R. 5107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Justice for All Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—SCOTT CAMBELL, STEPHANIE ROPER, WENDY PRESTON, LOUARNA GILLIS, AND NILA LYNN CRIME VICTIMS' RIGHTS ACT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act''.

SEC. 102. CRIME VICTIMS' RIGHTS.

(a) AMENDMENT TO TITLE 18.—Part II of title 18, United States Code, is amended by adding at the end the following:

''CHAPTER 237—CRIME VICTIMS' RIGHTS

''§ 3771. Crime victims' rights

''(a) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

''(1) The right to be reasonably protected from the accused.

''(2) The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused.

''(3) The right not to be excluded from any such public court proceeding, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at that proceeding.

''(4) The right to be reasonably heard at any public proceeding involving release, plea, or sentencing.

''(5) The reasonable right to confer with the attorney for the Government in the case.

''(6) The right to full and timely restitution as provided in law.

''(7) The right to proceedings free from unreasonable delay.

''(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

''(b) RIGHTS AFFORDED.—In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). Before denying a crime victim the right described in subsection (a)(3), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding. The reasons for any decision denying relief under this chapter shall be clearly stated on the record.

''(c) BEST EFFORTS TO ACCORD RIGHTS.—

''(1) GOVERNMENT.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).

''(2) ADVICE OF ATTORNEY.—The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (a).

''(3) NOTICE.—Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.

''(d) ENFORCEMENT AND LIMITATIONS.—

''(1) RIGHTS.—The crime victim or the crime victim's lawful representative, and the attorney for the Government may assert the rights described in subsection (a). A person accused of the crime may not obtain any form of relief under this chapter.

''(2) MULTIPLE CRIME VICTIMS.—In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

''(3) MOTION FOR RELIEF AND WRIT OF MANDAMUS.—The rights described in subsection (a) shall be asserted in the district court in which a defendant is being prosecuted for the crime or, if no prosecution is underway, in the district court in the district in which the crime occurred. The district court shall take up and decide such motion forthwith. If the district court denies the relief sought, the movant may petition the court of appeals for a writ of mandamus. The court of appeals may issue the writ on the order of a single judge pursuant to circuit rule or the Federal Rules of Appellate Procedure. The court of appeals shall take up and decide such application forthwith within 72 hours after the petition has been filed. In no event shall proceedings be stayed or subject to a continuance of more than five day, or affect the defendant's right to a speedy trial, for purposes of enforcing this chapter.

''(4) ERROR.—In any appeal in a criminal case, the Government may assert as error the district court's denial of any crime victim's right in the proceeding to which the appeal relates.

''(5) LIMITATION ON RELIEF.—In no case shall a failure to afford a right under this chapter provide grounds for a new trial, or to reopen a plea or a sentence, except in the case of restitution as provided in title 18.

''(6) NO CAUSE OF ACTION.—Nothing in this chapter shall be construed to authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the United States or any of its officers or employees could be held liable in damages. Nothing in this chapter shall be construed to impair the prosecutorial discretion of the Attorney General or any officer under his direction.

''(e) DEFINITIONS.—For the purposes of this chapter, the term 'crime victim' means a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter, but in no event shall the defendant be named as such guardian or representative.

''(f) PROCEDURES TO PROMOTE COMPLIANCE.—

''(1) REGULATIONS.—Not later than 1 year after the date of enactment of this chapter, the Attorney General of the United States shall promulgate regulations to enforce the rights of crime victims and to ensure compliance by responsible officials with the obligations described in law respecting crime victims.

''(2) CONTENTS.—The regulations promulgated under paragraph (1) shall—

''(A) designate an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;

''(B) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the treatment of crime victims, and otherwise assist such employees and offices in responding more effectively to the needs of crime victims;

''(C) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims; and

''(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.''.

(b) TABLE OF CHAPTERS.—The table of chapters for part II of title 18, United States Code, is amended by inserting at the end the following:

''237. Crime victims' rights ..... 3771''.

(c) REPEAL.—Section 502 of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10606) is repealed.

SEC. 103. INCREASED RESOURCES FOR ENFORCEMENT OF CRIME VICTIMS' RIGHTS.

(a) CRIME VICTIMS LEGAL ASSISTANCE GRANTS.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404C the following:

''SEC. 1404D. CRIME VICTIMS LEGAL ASSISTANCE GRANTS.

''(a) IN GENERAL.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public and private entities, to develop, establish, and maintain programs for the enforcement of crime victims' rights as provided in law.

''(b) PROHIBITION.—Grant amounts under this section may not be used to bring a cause of action for damages.

''(c) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under section 1402(d) of the Victims of Crime Act of 1984, there are authorized to be appropriated to carry out this title—

(1) $2,000,000 for fiscal year 2005 and $5,000,000 for each of fiscal years 2006, 2007, 2008, and 2009 to United States Attorneys Offices for Victim/Witnesses Assistance Programs;

(2) $2,000,000 for fiscal year 2005 and $5,000,000 in each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for enhancement of the Victim Notification System;

(3) $300,000 in fiscal year 2005 and $500,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for staff to administer the appropriation for the support of organizations as designated under paragraph (4);

(4) $7,000,000 for fiscal year 2005 and $11,000,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice, for the support of organizations that provide legal counsel and support services for victims in criminal cases for the enforcement of crime victims' rights in Federal jurisdictions, and in States and tribal governments that have laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code; and

(5) $5,000,000 for fiscal year 2005 and $7,000,000 for each of fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice, for the support of—

(A) training and technical assistance to States and tribal jurisdictions to craft state-of-the-art victims' rights laws; and

(B) training and technical assistance to States and tribal jurisdictions to design a variety of compliance systems, which shall include an evaluation component.

(c) INCREASED RESOURCES TO DEVELOP STATE-OF-THE-ART SYSTEMS FOR NOTIFYING CRIME VICTIMS OF IMPORTANT DATES AND DEVELOPMENTS.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404D the following:

''SEC. 1404E. CRIME VICTIMS NOTIFICATION GRANTS.

''(a) IN GENERAL.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public or private entities, to develop and implement state-of-the-art systems for notifying victims of crime of important dates and developments relating to the criminal

proceedings at issue in a timely and efficient manner, provided that the jurisdiction has laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code.

''(b) INTEGRATION OF SYSTEMS.—Systems developed and implemented under this section may be integrated with existing case management systems operated by the recipient of the grant.

''(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under section 1402(d), there are authorized to be appropriated to carry out this section—

''(1) $5,000,000 for fiscal year 2005; and

''(2) $5,000,000 for each of the fiscal years 2006, 2007, 2008, and 2009.

''(d) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.''.

SEC. 104. REPORTS.

(a) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Administrative Office of the United States Courts, for each Federal court, shall report to Congress the number of times that a right established in chapter 237 of title 18, United States Code, is asserted in a criminal case and the relief requested is denied and, with respect to each such denial, the reason for such denial, as well as the number of times a mandamus action is brought pursuant to chapter 237 of title 18, and the result reached.

(b) GOVERNMENT ACCOUNTABILITY OFFICE.—

(1) STUDY.—The Comptroller General shall conduct a study that evaluates the effect and efficacy of the implementation of the amendments made by this title on the treatment of crime victims in the Federal system.

(2) REPORT.—Not later than 4 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the appropriate committees a report containing the results of the study conducted under subsection (a).

TITLE II—DEBBIE SMITH ACT OF 2004

SEC. 201. SHORT TITLE.

This title may be cited as the ''Debbie Smith Act of 2004''.

SEC. 202. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) DESIGNATION OF PROGRAM; ELIGIBILITY OF LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) by amending the heading to read as follows:

''SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.'';

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or units of local government'' after ''eligible States''; and

(ii) by inserting ''or unit of local government'' after ''State'';

(B) in paragraph (2), by inserting before the period at the end the following: '', including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect''; and

(C) in paragraph (3), by striking ''within the State'';

(3) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or unit of local government'' after ''State'' both places that term appears; and

(ii) by inserting '', as required by the Attorney General'' after ''application shall'';

(B) in paragraph (1), by inserting ''or unit of local government'' after ''State'';

(C) in paragraph (3), by inserting ''or unit of local government'' after ''State'' the first place that term appears;

(D) in paragraph (4)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking ''and'' at the end;

(E) in paragraph (5)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

''(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System; and'';

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''The plan'' and inserting ''A plan pursuant to subsection (b)(1)'';

(ii) in subparagraph (A), by striking ''within the State''; and

(iii) in subparagraph (B), by striking ''within the State''; and

(B) in paragraph (2)(A), by inserting ''and units of local government'' after ''States'';

(5) in subsection (e)—

(A) in paragraph (1), by inserting ''or local government'' after ''State'' both places that term appears; and

(B) in paragraph (2), by inserting ''or unit of local government'' after ''State'';

(6) in subsection (f), in the matter preceding paragraph (1), by inserting ''or unit of local government'' after ''State'';

(7) in subsection (g)—

(A) in paragraph (1), by inserting ''or unit of local government'' after ''State''; and

(B) in paragraph (2), by inserting ''or units of local government'' after ''States''; and

(8) in subsection (h), by inserting ''or unit of local government'' after ''State'' both places that term appears.

(b) REAUTHORIZATION AND EXPANSION OF PROGRAM.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting ''(1) or'' before ''(2)''; and

(B) by inserting at the end the following:

''(4) To collect DNA samples specified in paragraph (1).

''(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.'';

(2) in subsection (b), as amended by this section, by inserting at the end the following:

''(7) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4).'';

(3) by amending subsection (c) to read as follows:

''(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

''(1) IN GENERAL.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

''(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

''(B) allocates grants among eligible entities fairly and efficiently to address jurisdictions in which significant backlogs exist, by considering—

''(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

''(ii) the population in the jurisdiction; and

''(iii) the number of part 1 violent crimes in the jurisdiction.

''(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

''(3) LIMITATION.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

''(A) For fiscal year 2005, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(B) For fiscal year 2006, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(C) For fiscal year 2007, not less than 45 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(D) For fiscal year 2008, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(E) For fiscal year 2009, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).'';

(4) in subsection (g)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.'';

(5) in subsection (j), by striking paragraphs (1) and (2) and inserting the following:

''(1) $151,000,000 for fiscal year 2005;

''(2) $151,000,000 for fiscal year 2006;

''(3) $151,000,000 for fiscal year 2007;

''(4) $151,000,000 for fiscal year 2008; and

''(5) $151,000,000 for fiscal year 2009.''; and

(6) by adding at the end the following:

''(k) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

''(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

''(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community—

''(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which participates in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards;

''(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

''(C) to support future capacity building efforts; and

''(3) in the form of additional grants to nonprofit professional associations actively involved in forensic science and nationally

recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

''(1) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act has undergone an external audit conducted to determine whether the laboratory is in compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.''.

SEC. 203. EXPANSION OF COMBINED DNA INDEX SYSTEM.

(a) INCLUSION OF ALL DNA SAMPLES FROM STATES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1), by striking ''of persons convicted of crimes;'' and inserting the following: ''of—

''(A) persons convicted of crimes;

''(B) persons who have been indicted or who have waived indictment for a crime; and

''(C) other persons whose DNA samples are collected under applicable legal authorities, provided that DNA profiles from arrestees who have not been indicted and DNA samples that are voluntarily submitted solely for elimination purposes shall not be included in the Combined DNA Index System;''; and

(2) in subsection (d)(2)—

(A) by striking ''if the responsible agency'' and inserting ''if—

''(i) the responsible agency'';

(B) by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(ii) the person has not been convicted of an offense on the basis of which that analysis was or could have been included in the index, and all charges for which the analysis was or could have been included in the index have been dismissed or resulted in acquittal.''.

(b) FELONS CONVICTED OF FEDERAL CRIMES.—Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

''(d) QUALIFYING FEDERAL OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

''(1) Any felony.

''(2) Any offense under chapter 109A of title 18, United States Code.

''(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

''(4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).''.

(c) MILITARY OFFENSES.—Section 1565(d) of title 10, United States Code, is amended to read as follows:

''(d) QUALIFYING MILITARY OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

''(1) Any offense under the Uniform Code of Military Justice for which a sentence of confinement for more than one year may be imposed.

''(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d))).''.

(d) KEYBOARD SEARCHES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132), as amended by subsection (a), is further amended by adding at the end the following new subsection:

''(e) AUTHORITY FOR KEYBOARD SEARCHES.—

''(1) IN GENERAL.—The Director shall ensure that any person who is authorized to access the index described in subsection (a) for purposes of including information on DNA identification records or DNA analyses in that index may also access that index for purposes of carrying out a one-time keyboard search on information obtained from any DNA sample lawfully collected for a criminal justice purpose except for a DNA sample voluntarily submitted solely for elimination purposes.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'keyboard search' means a search under which information obtained from a DNA sample is compared with information in the index without resulting in the information obtained from a DNA sample being included in the index.

''(3) NO PREEMPTION.—This subsection shall not be construed to preempt State law.''.

SEC. 204. TOLLING OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3297. Cases involving DNA evidence

''In a case in which DNA testing implicates an identified person in the commission of a felony, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3297. Cases involving DNA evidence.''.

(c) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section if the applicable limitation period has not yet expired.

SEC. 205. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by inserting ''dating violence,'' after ''domestic violence,'';

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

''(1) DATING VIOLENCE.—The term 'dating violence' means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of—

''(A) the length of the relationship;

''(B) the type of relationship; and

''(C) the frequency of interaction between the persons involved in the relationship.''; and

(C) in paragraph (3), as redesignated by subparagraph (A), by inserting ''dating violence,'' after ''domestic violence,'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting '', dating violence,'' after ''between domestic violence''; and

(ii) by inserting ''dating violence,'' after ''victims of domestic violence,'';

(B) in paragraph (2), by inserting ''dating violence,'' after ''domestic violence,''; and

(C) in paragraph (3), by inserting ''dating violence,'' after ''domestic violence,'';

(4) in subsection (d)—

(A) in paragraph (1), by inserting '', dating violence,'' after ''domestic violence'';

(B) in paragraph (2), by inserting '', dating violence,'' after ''domestic violence'';

(C) in paragraph (3), by inserting '', dating violence,'' after ''domestic violence''; and

(D) in paragraph (4), by inserting ''dating violence,'' after ''domestic violence,'';

(5) in subsection (e), by inserting ''dating violence,'' after ''domestic violence,''; and

(6) in subsection (f)(2)(A), by inserting ''dating violence,'' after ''domestic violence,''.

SEC. 206. ENSURING PRIVATE LABORATORY ASSISTANCE IN ELIMINATING DNA BACKLOG.

Section 2(d)(3) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(d)(3)) is amended to read as follows:

''(3) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

''(A) IN GENERAL.—A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services.

''(B) REDEMPTION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

''(C) PAYMENTS.—The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).''.

TITLE III—DNA SEXUAL ASSAULT JUSTICE ACT OF 2004

SEC. 301. SHORT TITLE.

This title may be cited as the ''DNA Sexual Assault Justice Act of 2004''.

SEC. 302. ENSURING PUBLIC CRIME LABORATORY COMPLIANCE WITH FEDERAL STANDARDS.

Section 210304(b)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14132(b)(2)) is amended to read as follows:

''(2) prepared by laboratories that—

''(A) not later than 2 years after the date of enactment of the DNA Sexual Assault Justice Act of 2004, have been accredited by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science community; and

''(B) undergo external audits, not less than once every 2 years, that demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation; and''.

SEC. 303. DNA TRAINING AND EDUCATION FOR LAW ENFORCEMENT, CORRECTIONAL PERSONNEL, AND COURT OFFICERS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence.

(b) ELIGIBLE ENTITY.—For purposes of subsection (a), an eligible entity is an organization consisting of, comprised of, or representing—

(1) law enforcement personnel, including police officers and other first responders, evidence technicians, investigators, and others who collect or examine evidence of crime;

(2) court officers, including State and local prosecutors, defense lawyers, and judges;

(3) forensic science professionals; and

(4) corrections personnel, including prison and jail personnel, and probation, parole, and other officers involved in supervision.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $12,500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 304. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, equipment, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other professionals involved in treating victims of sexual assault and sexual assault examination programs, including SANE (Sexual Assault Nurse Examiner), SAFE (Sexual Assault Forensic Examiner), and SART (Sexual Assault Response Team).

(b) ELIGIBLE ENTITY.—For purposes of this section, the term ''eligible entity'' includes—

(1) States;

(2) units of local government; and

(3) sexual assault examination programs, including—

(A) sexual assault nurse examiner (SANE) programs;

(B) sexual assault forensic examiner (SAFE) programs;

(C) sexual assault response team (SART) programs;

(D) State sexual assault coalitions;

(E) medical personnel, including doctors, medical examiners, coroners, and nurses, involved in treating victims of sexual assault; and

(F) victim service providers involved in treating victims of sexual assault.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 305. DNA RESEARCH AND DEVELOPMENT.

(a) IMPROVING DNA TECHNOLOGY.—The Attorney General shall make grants for research and development to improve forensic DNA technology, including increasing the identification accuracy and efficiency of DNA analysis, decreasing time and expense, and increasing portability.

(b) DEMONSTRATION PROJECTS.—The Attorney General shall make grants to appropriate entities under which research is carried out through demonstration projects involving coordinated training and commitment of resources to law enforcement agencies and key criminal justice participants to demonstrate and evaluate the use of forensic DNA technology in conjunction with other forensic tools. The demonstration projects shall include scientific evaluation of the public safety benefits, improvements to law enforcement operations, and cost-effectiveness of increased collection and use of DNA evidence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 306. NATIONAL FORENSIC SCIENCE COMMISSION.

(a) APPOINTMENT.—The Attorney General shall appoint a National Forensic Science Commission (in this section referred to as the ''Commission''), composed of persons experienced in criminal justice issues, including persons from the forensic science and criminal justice communities, to carry out the responsibilities under subsection (b).

(b) RESPONSIBILITIES.—The Commission shall—

(1) assess the present and future resource needs of the forensic science community;

(2) make recommendations to the Attorney General for maximizing the use of forensic technologies and techniques to solve crimes and protect the public;

(3) identify potential scientific advances that may assist law enforcement in using forensic technologies and techniques to protect the public;

(4) make recommendations to the Attorney General for programs that will increase the number of qualified forensic scientists available to work in public crime laboratories;

(5) disseminate, through the National Institute of Justice, best practices concerning the collection and analyses of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(6) examine additional issues pertaining to forensic science as requested by the Attorney General;

(7) examine Federal, State, and local privacy protection statutes, regulations, and practices relating to access to, or use of, stored DNA samples or DNA analyses, to determine whether such protections are sufficient;

(8) make specific recommendations to the Attorney General, as necessary, to enhance the protections described in paragraph (7) to ensure—

(A) the appropriate use and dissemination of DNA information;

(B) the accuracy, security, and confidentiality of DNA information;

(C) the timely removal and destruction of obsolete, expunged, or inaccurate DNA information; and

(D) that any other necessary measures are taken to protect privacy; and

(9) provide a forum for the exchange and dissemination of ideas and information in furtherance of the objectives described in paragraphs (1) through (8).

(c) PERSONNEL; PROCEDURES.—The Attorney General shall—

(1) designate the Chair of the Commission from among its members;

(2) designate any necessary staff to assist in carrying out the functions of the Commission; and

(3) establish procedures and guidelines for the operations of the Commission.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 307. FBI DNA PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $42,100,000 for each of fiscal years 2005 through 2009 to carry out the DNA programs and activities described under subsection (b).

(b) PROGRAMS AND ACTIVITIES.—The Federal Bureau of Investigation may use any amounts appropriated pursuant to subsection (a) for—

(1) nuclear DNA analysis;

(2) mitochondrial DNA analysis;

(3) regional mitochondrial DNA laboratories;

(4) the Combined DNA Index System;

(5) the Federal Convicted Offender DNA Program; and

(6) DNA research and development.

SEC. 308. DNA IDENTIFICATION OF MISSING PERSONS.

(a) IN GENERAL.—The Attorney General shall make grants to States and units of local government to promote the use of forensic DNA technology to identify missing persons and unidentified human remains.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 309. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED DISCLOSURE OR USE OF DNA INFORMATION.

Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended to read as follows:

''(c) CRIMINAL PENALTY.—A person who knowingly discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it, or obtains or uses, without authorization, such sample or result, shall be fined not more than $100,000. Each instance of disclosure, obtaining, or use shall constitute a separate offense under this subsection.''.

SEC. 310. TRIBAL COALITION GRANTS.

(a) IN GENERAL.—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

''(d) TRIBAL COALITION GRANTS.—

''(1) PURPOSE.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

''(A) increasing awareness of domestic violence and sexual assault against Indian women;

''(B) enhancing the response to violence against Indian women at the tribal, Federal, and State levels; and

''(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to Indian women victimized by domestic and sexual violence.

''(2) GRANTS TO TRIBAL COALITIONS.—The Attorney General shall award grants under paragraph (1) to—

''(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against Indian women; and

''(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against Indian women.

''(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).''.

(b) TECHNICAL AMENDMENT.—Effective as of November 2, 2002, and as if included therein as enacted, Public Law 107–273 (116 Stat. 1789) is amended in section 402(2) by striking ''sections 2006 through 2011'' and inserting ''sections 2007 through 2011''.

(c) AMOUNTS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (as redesignated by section 402(2) of Public Law 107–273, as amended by subsection (b)) is amended by amending subsection (b)(4) (42 U.S.C. 3796gg–1(b)(4)) to read as follows:

''(4) 1/54 shall be available for grants under section 2001(d);''.

SEC. 311. EXPANSION OF PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANT PROGRAM.

(a) FORENSIC BACKLOG ELIMINATION GRANTS.—Section 2804 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797m) is amended—

(1) in subsection (a)—

(A) by striking ''shall use the grant to carry out'' and inserting ''shall use the grant to do any one or more of the following:

''(1) To carry out''; and

(B) by adding at the end the following:

''(2) To eliminate a backlog in the analysis of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence.

''(3) To train, assist, and employ forensic laboratory personnel, as needed, to eliminate such a backlog.'';

(2) in subsection (b), by striking ''under this part'' and inserting ''for the purpose set forth in subsection (a)(1)''; and

(3) by adding at the end the following:

''(e) BACKLOG DEFINED.—For purposes of this section, a backlog in the analysis of forensic science evidence exists if such evidence—

''(1) has been stored in a laboratory, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility; and

''(2) has not been subjected to all appropriate forensic testing because of a lack of resources or personnel.''.

(b) EXTERNAL AUDITS.—Section 2802 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797k) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) a certification that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees or contractors of any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the State that will receive a portion of the grant amount.''.

(c) THREE-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(24) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(24)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(G) $20,000,000 for fiscal year 2007;

''(H) $20,000,000 for fiscal year 2008; and

''(I) $20,000,000 for fiscal year 2009.''.

(d) TECHNICAL AMENDMENT.—Section 1001(a) of such Act, as amended by subsection (c), is further amended by realigning paragraphs (24) and (25) so as to be flush with the left margin.

SEC. 312. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of this Act and the amendments made by this Act.

(b) CONTENTS.—The report submitted under subsection (a) shall include a description of—

(1) the progress made by Federal, State, and local entities in—

(A) collecting and entering DNA samples from offenders convicted of qualifying offenses for inclusion in the Combined DNA Index System (referred to in this subsection as ''CODIS'');

(B) analyzing samples from crime scenes, including evidence collected from sexual assaults and other serious violent crimes, and entering such DNA analyses in CODIS; and

(C) increasing the capacity of forensic laboratories to conduct DNA analyses;

(2) the priorities and plan for awarding grants among eligible States and units of local government to ensure that the purposes of this Act are carried out;

(3) the distribution of grant amounts under this Act among eligible States and local governments, and whether the distribution of such funds has served the purposes of the Debbie Smith DNA Backlog Grant Program;

(4) grants awarded and the use of such grants by eligible entities for DNA training and education programs for law enforcement, correctional personnel, court officers, medical personnel, victim service providers, and other personnel authorized under sections 303 and 304;

(5) grants awarded and the use of such grants by eligible entities to conduct DNA research and development programs to improve forensic DNA technology, and implement demonstration projects under section 305;

(6) the steps taken to establish the National Forensic Science Commission, and the activities of the Commission under section 306;

(7) the use of funds by the Federal Bureau of Investigation under section 307;

(8) grants awarded and the use of such grants by eligible entities to promote the use of forensic DNA technology to identify missing persons and unidentified human remains under section 308;

(9) grants awarded and the use of such grants by eligible entities to eliminate forensic science backlogs under the amendments made by section 311;

(10) State compliance with the requirements set forth in section 413; and

(11) any other matters considered relevant by the Attorney General.

TITLE IV—INNOCENCE PROTECTION ACT OF 2004

SEC. 401. SHORT TITLE.

This title may be cited as the ''Innocence Protection Act of 2004''.

Subtitle A—Exonerating the Innocent Through DNA Testing

SEC. 411. FEDERAL POST-CONVICTION DNA TESTING.

(a) FEDERAL CRIMINAL PROCEDURE.—

(1) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 228 the following:

''CHAPTER 228A—POST-CONVICTION DNA TESTING

''§ 3600. DNA testing

''(a) IN GENERAL.—Upon a written motion by an individual under a sentence of imprisonment or death pursuant to a conviction for a Federal offense (referred to in this section as the 'applicant'), the court that entered the judgment of conviction shall order DNA testing of specific evidence if—

''(1) the applicant asserts, under penalty of perjury, that the applicant is actually innocent of—

''(A) the Federal offense for which the applicant is under a sentence of imprisonment or death; or

''(B) another Federal or State offense, if—

''(i)(I) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(e) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

''(II) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or new sentencing hearing; and

''(ii) in the case of a State offense—

''(I) the applicant demonstrates that there is no adequate remedy under State law to permit DNA testing of the specified evidence relating to the State offense; and

''(II) to the extent available, the applicant has exhausted all remedies available under State law for requesting DNA testing of specified evidence relating to the State offense;

''(2) the specific evidence to be tested was secured in relation to the investigation or prosecution of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

''(3) the specific evidence to be tested—

''(A) was not previously subjected to DNA testing and the applicant did not knowingly and voluntarily waive the right to request DNA testing of that evidence in a court proceeding after the date of enactment of the Innocence Protection Act of 2004; or

''(B) was previously subjected to DNA testing and the applicant is requesting DNA testing using a new method or technology that is substantially more probative than the prior DNA testing;

''(4) the specific evidence to be tested is in the possession of the Government and has been subject to a chain of custody and retained under conditions sufficient to ensure that such evidence has not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed DNA testing;

''(5) the proposed DNA testing is reasonable in scope, uses scientifically sound methods, and is consistent with accepted forensic practices;

''(6) the applicant identifies a theory of defense that—

''(A) is not inconsistent with an affirmative defense presented at trial; and

''(B) would establish the actual innocence of the applicant of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

''(7) if the applicant was convicted following a trial, the identity of the perpetrator was at issue in the trial;

''(8) the proposed DNA testing of the specific evidence—

''(A) would produce new material evidence to support the theory of defense referenced in paragraph (6); and

''(B) assuming the DNA test result excludes the applicant, would raise a reasonable probability that the applicant did not commit the offense;

''(9) the applicant certifies that the applicant will provide a DNA sample for purposes of comparison; and

''(10) the applicant's motion is filed for the purpose of demonstrating the applicant's actual innocence of the Federal or State offense, and not to delay the execution of the sentence or the administration of justice.

''(b) NOTICE TO THE GOVERNMENT; PRESERVATION ORDER; APPOINTMENT OF COUNSEL.—

''(1) NOTICE.—Upon the receipt of a motion filed under subsection (a), the court shall—

''(A) notify the Government; and

''(B) allow the Government a reasonable time period to respond to the motion.

''(2) PRESERVATION ORDER.—To the extent necessary to carry out proceedings under this section, the court shall direct the Government to preserve the specific evidence relating to a motion under subsection (a).

''(3) APPOINTMENT OF COUNSEL.—The court may appoint counsel for an indigent applicant under this section in the same manner as in a proceeding under section 3006A(a)(2)(B).

''(c) TESTING PROCEDURES.—

''(1) IN GENERAL.—The court shall direct that any DNA testing ordered under this section be carried out by the Federal Bureau of Investigation.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the court may order DNA testing by another qualified laboratory if the court makes all necessary orders to ensure the integrity of the specific evidence and the reliability of the testing process and test results.

''(3) COSTS.—The costs of any DNA testing ordered under this section shall be paid—

''(A) by the applicant; or

''(B) in the case of an applicant who is indigent, by the Government.

''(d) TIME LIMITATION IN CAPITAL CASES.—In any case in which the applicant is sentenced to death—

''(1) any DNA testing ordered under this section shall be completed not later than 60 days after the date on which the Government responds to the motion filed under subsection (a); and

''(2) not later than 120 days after the date on which the DNA testing ordered under this section is completed, the court shall order any post-testing procedures under subsection (f) or (g), as appropriate.

''(e) REPORTING OF TEST RESULTS.—

''(1) IN GENERAL.—The results of any DNA testing ordered under this section shall be simultaneously disclosed to the court, the applicant, and the Government.

''(2) NDIS.—The Government shall submit any test results relating to the DNA of the applicant to the National DNA Index System (referred to in this subsection as 'NDIS').

''(3) RETENTION OF DNA SAMPLE.—

''(A) ENTRY INTO NDIS.—If the DNA test results obtained under this section are inconclusive or show that the applicant was the source of the DNA evidence, the DNA sample of the applicant may be retained in NDIS.

''(B) MATCH WITH OTHER OFFENSE.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant results in a match between the DNA sample of the applicant and another offense, the Attorney General shall notify the appropriate agency and preserve the DNA sample of the applicant.

''(C) NO MATCH.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant does not result in a match between the DNA sample of the applicant and another offense, the Attorney General shall destroy the DNA sample of the applicant and ensure that such information is not retained in NDIS if there is no other legal authority to retain the DNA sample of the applicant in NDIS.

''(f) POST-TESTING PROCEDURES; INCONCLUSIVE AND INCULPATORY RESULTS.—

''(1) INCONCLUSIVE RESULTS.—If DNA test results obtained under this section are inconclusive, the court may order further testing, if appropriate, or may deny the applicant relief.

''(2) INCULPATORY RESULTS.—If DNA test results obtained under this section show that the applicant was the source of the DNA evidence, the court shall—

''(A) deny the applicant relief; and

''(B) on motion of the Government—

''(i) make a determination whether the applicant's assertion of actual innocence was false, and, if the court makes such a finding, the court may hold the applicant in contempt;

''(ii) assess against the applicant the cost of any DNA testing carried out under this section;

''(iii) forward the finding to the Director of the Bureau of Prisons, who, upon receipt of such a finding, may deny, wholly or in part, the good conduct credit authorized under section 3632 on the basis of that finding;

''(iv) if the applicant is subject to the jurisdiction of the United States Parole Commission, forward the finding to the Commission so that the Commission may deny parole on the basis of that finding; and

''(v) if the DNA test results relate to a State offense, forward the finding to any appropriate State official.

''(3) SENTENCE.—In any prosecution of an applicant under chapter 79 for false assertions or other conduct in proceedings under this section, the court, upon conviction of the applicant, shall sentence the applicant to a term of imprisonment of not less than 3 years, which shall run consecutively to any other term of imprisonment the applicant is serving.

''(g) POST-TESTING PROCEDURES; MOTION FOR NEW TRIAL OR RESENTENCING.—

''(1) IN GENERAL.—Notwithstanding any law that would bar a motion under this paragraph as untimely, if DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, the applicant may file a motion for a new trial or resentencing, as appropriate. The court shall establish a reasonable schedule for the applicant to file such a motion and for the Government to respond to the motion.

''(2) STANDARD FOR GRANTING MOTION FOR NEW TRIAL OR RESENTENCING.—The court shall grant the motion of the applicant for a new trial or resentencing, as appropriate, if the DNA test results, when considered with all other evidence in the case (regardless of whether such evidence was introduced at trial), establish by a preponderance of the evidence that a new trial would result in an acquittal of—

''(A) in the case of a motion for a new trial, the Federal offense for which the applicant is under a sentence of imprisonment or death; and

''(B) in the case of a motion for resentencing, another Federal or State offense, if—

''(i) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(e) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

''(ii) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or a new sentencing proceeding.

''(h) OTHER LAWS UNAFFECTED.—

''(1) POST-CONVICTION RELIEF.—Nothing in this section shall affect the circumstances under which a person may obtain DNA testing or post-conviction relief under any other law.

''(2) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.

''(3) APPLICATION NOT A MOTION.—An application under this section shall not be considered to be a motion under section 2255 for purposes of determining whether the application or any other motion is a second or successive motion under section 2255.

''§ 3600A. Preservation of biological evidence

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Government shall preserve biological evidence that was secured in the investigation or prosecution of a Federal offense, if a defendant is under a sentence of imprisonment for such offense.

''(b) DEFINED TERM.—For purposes of this section, the term 'biological evidence' means—

''(1) a sexual assault forensic examination kit; or

''(2) semen, blood, saliva, hair, skin tissue, or other identified biological material.

''(c) APPLICABILITY.—Subsection (a) shall not apply if—

''(1) a court has denied a request or motion for DNA testing of the biological evidence by the defendant under section 3600, and no appeal is pending;

''(2) the defendant knowingly and voluntarily waived the right to request DNA testing of such evidence in a court proceeding conducted after the date of enactment of the Innocence Protection Act of 2004;

''(3) the defendant is notified after conviction that the biological evidence may be destroyed and the defendant does not file a motion under section 3600 within 180 days of receipt of the notice; or

''(4)(A) the evidence must be returned to its rightful owner, or is of such a size, bulk, or physical character as to render retention impracticable; and

''(B) the Government takes reasonable measures to remove and preserve portions of the material evidence sufficient to permit future DNA testing.

''(d) OTHER PRESERVATION REQUIREMENT.—Nothing in this section shall preempt or supersede any statute, regulation, court order, or other provision of law that may require evidence, including biological evidence, to be preserved.

''(e) REGULATIONS.—Not later than 180 days after the date of enactment of the Innocence Protection Act of 2004, the Attorney General shall promulgate regulations to implement and enforce this section, including appropriate disciplinary sanctions to ensure that employees comply with such regulations.

''(f) CRIMINAL PENALTY.—Whoever knowingly and intentionally destroys, alters, or tampers with biological evidence that is required to be preserved under this section with the intent to prevent that evidence from being subjected to DNA testing or prevent the production or use of that evidence in an official proceeding, shall be fined under this title, imprisoned for not more than 5 years, or both.

''(g) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 228 the following:

''228A. Post-conviction DNA testing .. 3600''.

(b) SYSTEM FOR REPORTING MOTIONS.—

(1) ESTABLISHMENT.—The Attorney General shall establish a system for reporting and tracking motions filed in accordance with section 3600 of title 18, United States Code.

(2) OPERATION.—In operating the system established under paragraph (1), the Federal courts shall provide to the Attorney General any requested assistance in operating such a system and in ensuring the accuracy and completeness of information included in that system.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that contains—

(A) a list of motions filed under section 3600 of title 18, United States Code, as added by this Act;

(B) whether DNA testing was ordered pursuant to such a motion;

(C) whether the applicant obtained relief on the basis of DNA test results; and

(D) whether further proceedings occurred following a granting of relief and the outcome of such proceedings.

(4) ADDITIONAL INFORMATION.—The report required to be submitted under paragraph (3) may include any other information the Attorney General determines to be relevant in assessing the operation, utility, or costs of section 3600 of title 18, United States Code, as added by this Act, and any recommendations the Attorney General may have relating to future legislative action concerning that section.

(c) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section shall take effect on the date of enactment of this Act and shall apply with respect to any offense committed, and to any judgment of conviction entered, before, on, or after that date of enactment.

SEC. 412. KIRK BLOODSWORTH POST-CONVICTION DNA TESTING GRANT PROGRAM.

(a) IN GENERAL.—The Attorney General shall establish the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program to award grants to States to help defray the costs of post-conviction DNA testing.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

(c) STATE DEFINED.—For purposes of this section, the term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 413. INCENTIVE GRANTS TO STATES TO ENSURE CONSIDERATION OF CLAIMS OF ACTUAL INNOCENCE.

For each of fiscal years 2005 through 2009, all funds appropriated to carry out sections 303, 305, 307, and 412 shall be reserved for grants to eligible entities that—

(1) meet the requirements under section 303, 305, 307, or 412, as appropriate; and

(2) demonstrate that the State in which the eligible entity operates—

(A) provides post-conviction DNA testing of specified evidence—

(i) under a State statute enacted before the date of enactment of this Act (or extended or renewed after such date), to any person convicted after trial and under a sentence of imprisonment or death for a State offense, in a manner that ensures a meaningful process for resolving a claim of actual innocence; or

(ii) under a State statute enacted after the date of enactment of this Act, or under a State rule, regulation, or practice, to any person under a sentence of imprisonment or death for a State offense, in a manner comparable to section 3600(a) of title 18, United States Code (provided that the State statute, rule, regulation, or practice may make post-conviction DNA testing available in cases in which such testing is not required by such section), and if the results of such testing exclude the applicant, permits the applicant to apply for post-conviction relief, notwithstanding any provision of law that would otherwise bar such application as untimely; and

(B) preserves biological evidence secured in relation to the investigation or prosecution of a State offense—

(i) under a State statute or a State or local rule, regulation, or practice, enacted or adopted before the date of enactment of this Act (or extended or renewed after such date), in a manner that ensures that reasonable measures are taken by all jurisdictions within the State to preserve such evidence; or

(ii) under a State statute or a State or local rule, regulation, or practice, enacted or adopted after the date of enactment of this Act, in a manner comparable to section 3600A of title 18, United States Code, if—

(I) all jurisdictions within the State comply with this requirement; and

(II) such jurisdictions may preserve such evidence for longer than the period of time that such evidence would be required to be preserved under such section 3600A.

Subtitle B—Improving the Quality of Representation in State Capital Cases

SEC. 421. CAPITAL REPRESENTATION IMPROVEMENT GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.

(b) DEFINED TERM.—In this section, the term ''legal representation'' means legal counsel and investigative, expert, and other services necessary for competent representation.

(c) USE OF FUNDS.—Grants awarded under subsection (a)—

(1) shall be used to establish, implement, or improve an effective system for providing competent legal representation to—

(A) indigents charged with an offense subject to capital punishment;

(B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and

(C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States; and

(2) shall not be used to fund, directly or indirectly, representation in specific capital cases.

(d) EFFECTIVE SYSTEM.—As used in subsection (c)(1), an effective system for providing competent legal representation is a system that—

(1) invests the responsibility for appointing qualified attorneys to represent indigents in capital cases—

(A) in a public defender program that relies on staff attorneys, members of the private bar, or both, to provide representation in capital cases;

(B) in an entity established by statute or by the highest State court with jurisdiction in criminal cases, which is composed of individuals with demonstrated knowledge and expertise in capital representation; or

(C) pursuant to a statutory procedure enacted before the date of the enactment of this Act under which the trial judge is required to appoint qualified attorneys from a roster maintained by a State or regional selection committee or similar entity; and

(2) requires the program described in paragraph (1)(A), the entity described in paragraph (1)(B), or an appropriate entity designated pursuant to the statutory procedure described in paragraph (1)(C), as applicable, to—

(A) establish qualifications for attorneys who may be appointed to represent indigents in capital cases;

(B) establish and maintain a roster of qualified attorneys;

(C) except in the case of a selection committee or similar entity described in paragraph (1)(C), assign 2 attorneys from the roster to represent an indigent in a capital case, or provide the trial judge a list of not more than 2 pairs of attorneys from the roster, from which 1 pair shall be assigned, provided that, in any case in which the State elects not to seek the death penalty, a court may find, subject to any requirement of State law, that a second attorney need not remain assigned to represent the indigent to ensure competent representation;

(D) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases;

(E) monitor the performance of attorneys who are appointed and their attendance at training programs, and remove from the roster attorneys who fail to deliver effective representation or who fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs; and

(F) ensure funding for the full cost of competent legal representation by the defense team and outside experts selected by counsel, who shall be compensated—

(i) in the case of a State that employs a statutory procedure described in paragraph (1)(C), in accordance with the requirements of that statutory procedure; and

(ii) in all other cases, as follows:

(I) Attorneys employed by a public defender program shall be compensated according to a salary scale that is commensurate with the salary scale of the prosecutor's office in the jurisdiction.

(II) Appointed attorneys shall be compensated for actual time and service, computed on an hourly basis and at a reasonable hourly rate in light of the qualifications and experience of the attorney and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases.

(III) Non-attorney members of the defense team, including investigators, mitigation specialists, and experts, shall be compensated at a rate that reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases.

(IV) Attorney and non-attorney members of the defense team shall be reimbursed for reasonable incidental expenses.

SEC. 422. CAPITAL PROSECUTION IMPROVEMENT GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to States for the purpose of enhancing the ability of prosecutors to effectively represent the public in State capital cases.

(b) USE OF FUNDS.—

(1) PERMITTED USES.—Grants awarded under subsection (a) shall be used for one or more of the following:

(A) To design and implement training programs for State and local prosecutors to ensure effective representation in State capital cases.

(B) To develop and implement appropriate standards and qualifications for State and local prosecutors who litigate State capital cases.

(C) To assess the performance of State and local prosecutors who litigate State capital cases, provided that such assessment shall not include participation by the assessor in the trial of any specific capital case.

(D) To identify and implement any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases.

(E) To establish a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate.

(F) To provide support and assistance to the families of murder victims.

(2) PROHIBITED USE.—Grants awarded under subsection (a) shall not be used to fund, directly or indirectly, the prosecution of specific capital cases.

SEC. 423. APPLICATIONS.

(a) IN GENERAL.—The Attorney General shall establish a process through which a State may apply for a grant under this subtitle.

(b) APPLICATION.—

(1) IN GENERAL.—A State desiring a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall contain—

(A) a certification by an appropriate officer of the State that the State authorizes capital punishment under its laws and conducts, or will conduct, prosecutions in which capital punishment is sought;

(B) a description of the communities to be served by the grant, including the nature of existing capital defender services and capital prosecution programs within such communities;

(C) a long-term statewide strategy and detailed implementation plan that—

(i) reflects consultation with the judiciary, the organized bar, and State and local prosecutor and defender organizations; and

(ii) establishes as a priority improvement in the quality of trial-level representation of indigents charged with capital crimes and trial-level prosecution of capital crimes;

(D) in the case of a State that employs a statutory procedure described in section 421(d)(1)(C), a certification by an appropriate officer of the State that the State is in substantial compliance with the requirements of the applicable State statute; and

(E) assurances that Federal funds received under this subtitle shall be—

(i) used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under this subtitle; and

(ii) allocated in accordance with section 426(b).

SEC. 424. STATE REPORTS.

(a) IN GENERAL.—Each State receiving funds under this subtitle shall submit an annual report to the Attorney General that—

(1) identifies the activities carried out with such funds; and

(2) explains how each activity complies with the terms and conditions of the grant.

(b) CAPITAL REPRESENTATION IMPROVEMENT GRANTS.—With respect to the funds provided under section 421, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) an explanation of the means by which the State—

(A) invests the responsibility for identifying and appointing qualified attorneys to represent indigents in capital cases in a program described in section 421(d)(1)(A), an entity described in section 421(d)(1)(B), or selection committee or similar entity described in section 421(d)(1)(C); and

(B) requires such program, entity, or selection committee or similar entity, or other appropriate entity designated pursuant to the statutory procedure described in section 421(d)(1)(C), to—

(i) establish qualifications for attorneys who may be appointed to represent indigents in capital cases in accordance with section 421(d)(2)(A);

(ii) establish and maintain a roster of qualified attorneys in accordance with section 421(d)(2)(B);

(iii) assign attorneys from the roster in accordance with section 421(d)(2)(C);

(iv) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases in accordance with section 421(d)(2)(D);

(v) monitor the performance and training program attendance of appointed attorneys, and remove from the roster attorneys who fail to deliver effective representation or fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs, in accordance with section 421(d)(2)(E); and

(vi) ensure funding for the full cost of competent legal representation by the defense team and outside experts selected by counsel, in accordance with section 421(d)(2)(F), including a statement setting forth—

(I) if the State employs a public defender program under section 421(d)(1)(A), the salaries received by the attorneys employed by such program and the salaries received by attorneys in the prosecutor's office in the jurisdiction;

(II) if the State employs appointed attorneys under section 421(d)(1)(B), the hourly fees received by such attorneys for actual time and service and the basis on which the hourly rate was calculated;

(III) the amounts paid to non-attorney members of the defense team, and the basis on which such amounts were determined; and

(IV) the amounts for which attorney and non-attorney members of the defense team were reimbursed for reasonable incidental expenses;

(3) in the case of a State that employs a statutory procedure described in section 421(d)(1)(C), an assessment of the extent to which the State is in compliance with the requirements of the applicable State statute; and

(4) a statement confirming that the funds have not been used to fund representation in specific capital cases or to supplant non-Federal funds.

(c) CAPITAL PROSECUTION IMPROVEMENT GRANTS.—With respect to the funds provided under section 422, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) a description of the means by which the State has—

(A) designed and established training programs for State and local prosecutors to ensure effective representation in State capital cases in accordance with section 422(b)(1)(A);

(B) developed and implemented appropriate standards and qualifications for State and local prosecutors who litigate State capital cases in accordance with section 422(b)(1)(B);

(C) assessed the performance of State and local prosecutors who litigate State capital cases in accordance with section 422(b)(1)(C);

(D) identified and implemented any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases in accordance with section 422(b)(1)(D);

(E) established a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate in accordance with section 422(b)(1)(E); and

(F) provided support and assistance to the families of murder victims; and

(3) a statement confirming that the funds have not been used to fund the prosecution of specific capital cases or to supplant non-Federal funds.

(d) PUBLIC DISCLOSURE OF ANNUAL STATE REPORTS.—The annual reports to the Attorney General submitted by any State under this section shall be made available to the public.

SEC. 425. EVALUATIONS BY INSPECTOR GENERAL AND ADMINISTRATIVE REMEDIES.

(a) EVALUATION BY INSPECTOR GENERAL.—

(1) IN GENERAL.—As soon as practicable after the end of the first fiscal year for which a State receives funds under a grant made under this title, the Inspector General of the Department of Justice (in this section referred to as the ''Inspector General'') shall—

(A) after affording an opportunity for any person to provide comments on a report submitted under section 424, submit to Congress and to the Attorney General a report evaluating the compliance by the State with the terms and conditions of the grant; and

(B) if the Inspector General concludes that the State is not in compliance with the terms and conditions of the grant, specify any deficiencies and make recommendations for corrective action.

(2) PRIORITY.—In conducting evaluations under this subsection, the Inspector General shall give priority to States that the Inspector General determines, based on information submitted by the State and other comments provided by any other person, to be at the highest risk of noncompliance.

(3) DETERMINATION FOR STATUTORY PROCEDURE STATES.—For each State that employs a statutory procedure described in section 421(d)(1)(C), the Inspector General shall submit to Congress and to the Attorney General, not later than the end of the first fiscal year for which such State receives funds, after affording an opportunity for any person to provide comments on a certification submitted under section 423(b)(2)(D), a determination as to whether the State is in substantial compliance with the requirements of the applicable State statute.

(b) ADMINISTRATIVE REVIEW.—

(1) COMMENT.—Upon receiving the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall provide the State with an opportunity to comment regarding the findings and conclusions of the report or the determination.

(2) CORRECTIVE ACTION PLAN.—If the Attorney General, after reviewing the report under subsection (a)(1) or the determination under subsection (a)(3), determines that a State is not in compliance with the terms and conditions of the grant, the Attorney General shall consult with the appropriate State authorities to enter into a plan for corrective action. If the State does not agree to a plan for corrective action that has been approved by the Attorney General within 90 days after the submission of the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall, within 30 days, direct the State to take corrective action to bring the State into compliance.

(3) REPORT TO CONGRESS.—Not later than 90 days after the earlier of the implementation of a corrective action plan or a directive to implement such a plan under paragraph (2), the Attorney General shall submit a report to Congress as to whether the State has taken corrective action and is in compliance with the terms and conditions of the grant.

(c) PENALTIES FOR NONCOMPLIANCE.—If the State fails to take the prescribed corrective action under subsection (b) and is not in compliance with the terms and conditions of the grant, the Attorney General shall discontinue all further funding under sections 421 and 422 and require the State to return the funds granted under such sections for that fiscal year. Nothing in this paragraph shall prevent a State which has been subject to penalties for noncompliance from reapplying for a grant under this subtitle in another fiscal year.

(d) PERIODIC REPORTS.—During the grant period, the Inspector General shall periodically review the compliance of each State with the terms and conditions of the grant.

(e) ADMINISTRATIVE COSTS.—Not less than 2.5 percent of the funds appropriated to carry out this subtitle for each of fiscal years 2005 through 2009 shall be made available to the Inspector General for purposes of carrying out this section. Such sums shall remain available until expended.

(f) SPECIAL RULE FOR ''STATUTORY PROCEDURE'' STATES NOT IN SUBSTANTIAL COMPLIANCE WITH STATUTORY PROCEDURES.—

(1) IN GENERAL.—In the case of a State that employs a statutory procedure described in section 421(d)(1)(C), if the Inspector General submits a determination under subsection (a)(3) that the State is not in substantial compliance with the requirements of the applicable State statute, then for the period beginning with the date on which that determination was submitted and ending on the date on which the Inspector General determines that the State is in substantial compliance with the requirements of that statute, the funds awarded under this subtitle shall be allocated solely for the uses described in section 421.

(2) RULE OF CONSTRUCTION.—The requirements of this subsection apply in addition to, and not instead of, the other requirements of this section.

SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR GRANTS.—There are authorized to be appropriated $100,000,000 for each of fiscal years 2005 through 2009 to carry out this subtitle.

(b) RESTRICTION ON USE OF FUNDS TO ENSURE EQUAL ALLOCATION.—Each State receiving a grant under this subtitle shall allocate the funds equally between the uses described in section 421 and the uses described in section 422, except as provided in section 425(f).

Subtitle C—Compensation for the Wrongfully Convicted

SEC. 431. INCREASED COMPENSATION IN FEDERAL CASES FOR THE WRONGFULLY CONVICTED.

Section 2513(e) of title 28, United States Code, is amended by striking ''exceed the sum of $5,000'' and inserting ''exceed $100,000 for each 12-month period of incarceration for any plaintiff who was unjustly sentenced to death and $50,000 for each 12-month period of incarceration for any other plaintiff''.

SEC. 432. SENSE OF CONGRESS REGARDING COMPENSATION IN STATE DEATH PENALTY CASES.

It is the sense of Congress that States should provide reasonable compensation to any person found to have been unjustly convicted of an offense against the State and sentenced to death.

The SPEAKER pro tempore. After one hour of debate on the bill, it shall be in order to consider the amendment printed in House Report 108–737 if offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) or his designee, which shall be considered read and shall be debatable for 20 minutes, equally divided and controlled by the proponent and an opponent.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5107, the Justice for All Act of 2004. This bill is called ''justice for all'' because it will enhance the rights and protections of all persons who are involved in the criminal justice system.

It does this through two different but complimentary mechanisms. First, a new set of statutory victims' rights that are both enforceable in a court of law and supported by fully-funded victims-assistance programs; and, two, a comprehensive DNA bill that seeks to ensure that the true offender is caught and convicted of the crime.

Victims of crime have long complained that theirs are the forgotten voices in the criminal justice system. For example, Roberta Roper, whose daughter Stephanie was kidnapped, brutally raped, tortured and murdered in 1982, testified before the Subcommittee on the Constitution that, unlike her daughter's killers, she had no right to be informed, no rights to attend the trial and no rights to be heard before sentencing.

□ 1115

Her experience, and that of many others like her, have led victims' rights advocates to push for a victims' rights statute to counterbalance the rights provided to the accused under the Constitution.

The victims' rights portion of this bill originated with S. 2329, which passed the Senate on April 22, 2004, by a vote of 96 to 1. Like S. 2329, this bill contains eight enumerated rights for the victim, including the right to be reasonably protected from the accused, the right to timely notice of public court proceedings involving the crime, the right not to be excluded from such public court proceedings, the right to be reasonably heard at those proceedings, the reasonable right to confer with the prosecutor, the right to restitution, the right to proceedings free from unreasonable delay and the right to be treated with fairness and respect.

Each of these rights is enforceable by both the prosecutor and the crime victim. The crime victim and the prosecutor may assert the crime victim's right and, if necessary, seek a stay of any proceedings in which the victim's rights are being denied. The government or the crime victim can then seek a writ of mandamus from the appropriate Court of Appeals to ensure that the crime victim's rights are protected.

In addition, the Justice for All Act contains important provisions to ensure that the criminal justice system will continue to operate in an efficient manner and that there will be an appropriate level of finality to all proceedings.

Finally, this legislation will provide funds for victims' assistance programs at both the Federal and State level. Of particular importance are funds to support programs that provide legal counsel for crime victims. These funds will help to develop a body of laws to protect the rights of victims in the Federal courts. The National Crime Victim Law Institute is but one example of an organization that provides the type of legal counsel envisioned by the bill.

The bill is not identical to the Senate-passed bill, but it is close. Since Senate passage, the committee has worked with many interested parties on these issues. That process resulted in H.R. 5107 which, as introduced, addressed many of the concerns raised by S. 2329. However, at the Committee on the Judiciary's markup, I stated that we will continue to work on this bill until we have the best bill possible. After several more weeks of negotiations, I believe that the manager's amendment, which I will offer in a bit, moves even further in the right direction and now represents that best possible bill.

The second important element of the Justice for All Act contained in titles II through IV pertains to the use of DNA technology. These provisions come from H.R. 3214 which passed the House by a vote of 357 to 67 on November 5, 2003, but continues to await action in the Senate. The DNA portion of the Justice for All Act as introduced was identical to the version of H.R. 3214 passed by the House last November.

Titles II through IV of the Justice for All Act seek to resolve another problem that victims face, the frustration and depression over the length of time it takes to track down and apprehend the attacker. DNA samples can help to quickly apprehend offenders and solve crimes if law enforcement agencies have access to the most up-to-date testing capabilities. Additionally, DNA technology is increasingly vital to ensuring accuracy and fairness in the criminal justice system. DNA can identify criminals with incredible accuracy when biological evidence exists, and DNA can be used to clear suspects and exonerate persons mistakenly accused or convicted of crimes.

The current Federal and State DNA collection and analysis system needs improvement. The Justice for All Act will provide the necessary funding to ensure these critical programs have access to the necessary equipment and training. It will provide funds to eliminate the backlog of DNA samples in need of testing and provide greater access to potentially exculpatory evidence to those who may have been wrongfully convicted of a crime.

However, as we did with the victims' rights portion of the bill, we have continued to work with all parties to address concerns relating to the DNA testing portions of the bill. Those changes, which are reflected in the manager's amendment, greatly improve the bill, and I will describe them in greater detail when the amendment comes up.

As I mentioned earlier, this bill has been the process of lengthy negotiations among many different parties. Most of the parties have worked to get this result, and I think they now believe that this is a good product. Unfortunately, however, the Department of Justice was unable to come to this conclusion. I, and the other cosponsors of this legislation, bent over backwards to satisfy their concerns. No matter how much we bent, nothing would satisfy them. As chairman of the committee with the authorizing jurisdiction over the department, I am very disappointed with its position on this bill. This bill contains many, many good things for the department, and its absolute obstinence despite many, many efforts to compromise is completely unreasonable.

This reminds me of the debate over the breakup of the Immigration and Naturalization Service in 2002, a clearly dysfunctional agency that needed reform. Out of blind bureaucratic inertia, the department opposed that much-needed legislation until the very last moment. In short, Mr. Speaker, I sincerely hope that the department will come to its senses, throw off its blinders and endorse this good and important legislation.

I would finally like to thank those who did cooperate in this process. The chairman of the Subcommittee on the Constitution, the gentleman from Ohio (Mr. CHABOT) has been a tireless advocate for victims' rights, as well as the gentleman from Michigan (Ranking

Member CONYERS), the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Wisconsin (Mr. GREEN), the gentleman from Illinois (Mr. LAHOOD), the gentlewoman from New York (Mrs. MALONEY), and all of the other important cosponsors for this important bill.

In addition, I want to thank my own staff, Katy Crooks, and general counsel, Philip Kiko, Jay Apperson, and Stewart Jeffries, as well as staffers of the gentleman from Massachusetts (Mr. DELAHUNT), Mark Agrast and Christine Leonard. This would not have happened without their tireless work. I urge my colleagues to support this very good bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER) just indicated, this is really the culmination of an extraordinary bipartisan effort towards a common goal. I would echo his kudos for so many Members on both sides of the aisle, as well as staff. My colleague, the gentleman from Illinois (Mr. LAHOOD) who has been here from the beginning; this has been an odyssey, if you will, of some 4 or 5 years. On our side of the aisle, I want to make particular note of the efforts of the gentleman from New York (Mr. WEINER), the gentleman from California (Mr. SCHIFF), the gentleman from Virginia (Mr. SCOTT), the gentlewoman from New York (Mrs. MALONEY) and, of course, my friend who I serve with on the Committee on the Judiciary, my colleague, the gentleman from Wisconsin (Mr. GREEN). But it has to be stated that without the efforts of the distinguished chairman of the committee, the gentleman from Wisconsin (Mr. SENSENBRENNER), we would not be here today. It is really that simple, and I want to acknowledge his Herculean efforts.

This comprehensive legislation seeks to repair, if you will, the two sides of injustice when mistakes happen. I encourage my colleagues, Mr. Speaker, to consider today that the victims of the criminal justice system do not always look alike; they just get caught in this system in different ways. Think of victims like Debbie Smith of Virginia for whom title II of this bill is named. As she has said, and these are her words, ''It gives no comfort to the victims and their families to know that the wrong person is behind bars and the real perpetrator is free to walk the streets'' and commit that crime again.

Debbie Smith is a courageous advocate who has done so much to help her fellow survivors of sexual assault. Yet, it took 6 years for the DNA evidence to be tested in her case, evidence that ultimately led to the capture of that rapist. Only then was she free from what she has called an ''emotional prison.''

And there are other categories of victims in America today, individuals charged with false accusations and imprisoned based on wrongful convictions. Like my friend, Kirk Bloodsworth of Maryland, the first death row inmate to be exonerated by DNA testing after 10 years on death row. Kirk had to convince his lawyer to get the test. DNA established Kirk's innocence, and it also led to the identification and conviction of the real perpetrator, the real murderer, within this past year.

Debbie Smith and Kirk Bloodsworth are both among the innocent whom we seek to protect, Mr. Speaker. Think of the human costs when an innocent person is executed or spends long years in jail. Imagine the scars of a victim who waits years to know the identity of their assailant. Mr. Speaker, we are not talking about hypothetical scenarios here; we are talking about real people, ordinary Americans facing the most extreme miscarriages of justice.

Just this past week in Michigan, a murder case was thrown out of court after DNA evidence demonstrated that the defendant was innocent. Almost every week there is a news story about the use of DNA evidence to exonerate the innocent. Earlier this year in Texas, DNA exonerated Josiah Sutton. During Mr. Sutton's trial, he asked for a DNA test, but his attorney told him that he did not have enough money to obtain it. Mr. Sutton was convicted on charges of rape and sentenced to 25 years in prison.

Four and a half years into that sentence, Mr. Sutton benefited from a moment of serendipity, pure chance, if you will. Listening to the radio, his mother heard about an investigation into DNA testing problems at a Houston crime lab. She called reporters, who agreed to investigate. A UCLA professor conducted an analysis of the DNA evidence and concluded there was no basis for Mr. Sutton's conviction. Since then, he has been fully exonerated, and the crime lab has been shut down.

Well, this bill would help the States protect victims. This comprehensive legislation, as the chairman indicated, contains four titles. I will not review them now; the chairman has done a more than adequate job. It also includes the original bill that was filed by myself and the gentleman from Illinois (Mr. LAHOOD) entitled the Innocence Protection Act. And here, in the final hours of this legislative session, the version of the Innocence Protection Act that is included in this bill, it is not all that we wanted, but it is an important step forward, and as I just enumerated by pointing just to two different cases, it is long overdue.

Mr. Speaker, the criminal justice system is about the search for the truth, and like all human enterprises, it is fallible. Judges and jurors and police, eye witnesses, defense counsel and prosecutors are all human beings and all make mistakes. I served as a prosecutor for some 20 years. I made mistakes, and those mistakes are etched forever in my mind.

But we have the means now at our disposal to minimize the possibility of error, and especially where lives are at stake, we have no choice, we have no option, we must take advantage of them. Because this bill at its core is about restoring public confidence in the integrity of the American justice system, that system, which really does set us apart, sets our democracy apart among the family of nations, that makes us the viable, healthy democracy that we are.

So I would encourage my colleagues to accept the manager's amendment, to pass this bill, and, hopefully, in the course of the next several days, there will be an awakening, if you will, elsewhere in this city, and the bill should be signed before too long, because our system is at stake.

Mr. Speaker, I reserve the balance of my time.

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Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the original author of the Innocents Protection Act, the gentleman from Illinois (Mr. LAHOOD).

(Mr. LAHOOD asked and was given permission to revise and extend his remarks.)

Mr. LAHOOD. Mr. Speaker, I offer my thanks to the chairman of the committee for hanging in there with us and being so persistent about this important piece of legislation. My thanks to the gentleman from Massachusetts (Mr. DELAHUNT) for also hanging in there with us 5 years ago when he and I collaborated on this and introduced this bill. I think we had an idea it would take this long, but I think we are getting close. And if we can persuade the other body that this is the right approach and a good bill, I think we will have come a long way over the last 5 years to perfect a bill.

I really thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER). He really has helped us perfect this idea that there has to be 100 percent certainty in capital cases and in death penalty cases.

As a proponent of capital punishment, I believe very strongly that it can be a deterrent, but there has to be 100 percent certainty; and that is really what one of the titles the Innocents Protection Act's title of this bill really allows for and provides for. We could not be here today without really the leadership of the chairman. So I am grateful to him.

When we look in the eyes of people like Kirk Bloodsworth and Debbie Smith and to be able to tell them that we are getting close to solving some very serious problems and really trying to get to perfection in a flawed system. I am very proud of the students at the Northwestern University in Chicago for the work that they did that really highlighted the flaw in this system after a study where they looked at all death penalty cases in Illinois.

And as a result of their study, 12 people were released from death row because it was found that they were innocent. And at that point I think we all realized that there were 12 people on the street that were guilty of the crimes that were free people. And that kind of initiative and that kind of study really emboldened us to move ahead with this legislation. We could not have done it without them.

We could not have done it without the determination of people like Kirk Bloodsworth and Debbie Smith and the chairman and the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. Speaker, I have prepared remarks that really go into more detail, but I just wanted to be here today to say thanks to all those who have had the determination to make this happen. I ask all Members to support this bill.

Mr. Speaker, I rise today as a supporter of the death penalty, and supporter of this bill. In the 106th and 107th Congresses, I sponsored the Innocence Protection Act with Mr. DELAHUNT, which is now included as section 3 in the Justice For All Act.

I am a proponent of the death penalty, as a deterrent to violent crime, and this bill provides the materials necessary to repair our flawed system. I believe that those of us that support the death penalty have a responsibility to ensure it is applied fairly. As a just society, we must condemn the guilty, exonerate the innocent, and protect all Americans' fundamental right to truth. It is my belief that this legislation allows us to save the death penalty, to know that we are utilizing it in instances where we are confident of wrongdoing.

Mr. Speaker, we cannot afford one more innocent life to be lost due to inexperienced counsel, or unprocessed DNA kits. We must permit inmates access to post-conviction DNA testing to establish innocence and compensate those who have served time for crimes they did not commit.

In order to continue to rightfully punish our guilty, we must establish minimum standards of competency for counsel in capital cases. As long as innocent Americans are on death row, the guilty remain on our streets. This legislation would increase public confidence in our Nation's judicial system as it relates to the death penalty. Individuals have spent years on death row for crimes they did not commit.

A death sentence is the ultimate punishment. Its absolute finality commands that we be 100 percent certain of an individual's guilt. In protecting the innocent, we also make sure the guilty do not go free.

I applaud the chairman for his determination in crafting this bipartisan piece of legislation that assures fundamental accuracy and fairness in our judicial system.

Mr. DELAHUNT. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. SCHIFF), a distinguished colleague and prominent member of the House Committee on the Judiciary.

Mr. SCHIFF. Mr. Speaker, as a cosponsor of the Advancing Justice Through DNA Technology Act of 2003, which passed overwhelmingly in the House in November 2003, I rise in strong support of the bill on the floor today, the Justice For All Act, which I am also proud to be an original cosponsor of.

At the outset I want to compliment my colleague, the gentleman from Massachusetts (Mr. DELAHUNT). From the very beginning we spoke about this bill, two former prosecutors, and while I had been focused mainly on the power of DNA to solve unsolved crimes, to go after violent felons who still walk the streets, my good friend, the gentleman from Massachusetts (Mr. DELAHUNT), made the equally compelling point that DNA evidence has the power to exonerate those charged with the most serious crimes, to exonerate those on death row even; as has been proved the case, not merely calling into question evidence in an original trial, but rather proving conclusively the innocence of people who faced the ultimate penalty.

The DNA database improvements in this bill will help solve countless crimes and also exonerate innocent individuals wrongly imprisoned.

As a former prosecutor, I have witnessed the powerful force that DNA profiles have in solving crimes. The FBI's DNA database contains around 2 million DNA profiles and has yielded thousands of matches in criminal investigations, but thousands of additional matches can and should be made. For this reason I worked on legislation last year to increase the effectiveness of DNA databases. This legislation was aimed at replicating on a nationwide basis the tremendous State successes in solving crimes using DNA.

States have taken the lead in expanding DNA and crime-solving efforts. For example, in Virginia those efforts have yielded tremendous results with forensics officials making over a thousand cold hits, finally providing resolution to a great number of unsolved crimes. The legislation before us today makes important changes in Federal law in order to replicate these tremendous successes on a nationwide basis. These additional tools will provide additional database searching capabilities for Federal, State and local law enforcement agencies, helping to solve thousands of cold cases including unsolved murders and unsolved rape cases.

In addition, the authorization of much needed funding to eliminate the current backlog of unanalyzed DNA samples in the Nation's crime labs and the important Innocents Protection Provision will help ensure that inmates have access to DNA testing to establish their innocence.

I am pleased the House of Representatives is poised to approve these changes in a bipartisan fashion, and I hope this legislation will be approved by the Congress as a whole and quickly enacted into law.

In conclusion, I want to again thank my colleague, the gentleman from Massachusetts (Mr. DELAHUNT), for his pioneering efforts on the Innocents Protection Act for bringing really to this body an awareness of the power of DNA to exonerate those who have been wrongly convicted of the most devastating cases facing the ultimate penalty. We could not have more important work before this body.

I want to compliment the commitment of the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his superlative leadership in this legislation, without which we would not be here on the floor today.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I want to commend the chairman and thank him for his leadership, particularly the aspect of the bill which promotes and supports victims of crime.

Providing crime victims with dignity and respect through an established and enforceable set of rights ensures that justice is not reserved only for the accused but extends to those who have personally been affected by the crimes. And after all, we have thousands and thousands of people in this country that are affected in an adverse way by crime every single year.

The proposal before us today, the Justice For All Act, H.R. 5107, draws heavily from the Crime Victim's Rights legislation providing victims with substantive enforceable rights such as the right to be present during proceedings and the right to confront assailants at those proceedings and the right to be notified about the release or escape of the perpetrator from custody.

I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) also for including in the bill protections that DNA testing can afford families who may have members missing or their remains unidentified.

I want to particularly thank and recognize the courageous person in the greater Cincinnati area, that is Deborah Culberson, who lost her daughter, Keri, to a terrible murder, and the perpetrator is behind bars, but they have not been able to locate or identify her daughter's remains. And she has stepped forward and she has been just a very forceful person behind making sure that we have a DNA database which families who have lost loved ones may be able to identify and, therefore, provide at least some closure to that family. It is a terrible tragedy.

This may not directly benefit her, but it may benefit others in the future who face these tragedies in their own families.

There is no question that the rights afforded by H.R. 5107 are a positive step toward making certain justice is served not only for the accused but for the innocent victims. I would strongly encourage very strong bipartisan support for this legislation. It is important legislation. Some of it is a first step and many of us think we may in the future be able to go further. But I think this is a very positive step. I want to once

again thank and recognize the gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership on this.

Mr. DELAHUNT. Mr. Speaker, I yield 3½ minutes to the gentleman from New York (Mr. WEINER), a member of the committee who has championed a particular title in this bill and who has brought to the attention of the Committee on the Judiciary the need to do something about testing for rape kits.

Mr. WEINER. Mr. Speaker, it is remarkable that in DNA people see this issue through many different prisms, all of them positive. For those of us in this Chamber who are concerned about law enforcement, DNA is truly a miracle. It is better than a fingerprint. It is better than a video tape. It is better than an eye witness. It is better than a lie detector. With DNA we can find out who did a crime, and as other speakers have spoken to here, we can also find out who did not do it.

But the prism I look at this issue through was formed early in my congressional career. The prism I look at DNA through is a series of cardboard boxes all stacked in a refrigerated warehouse in Long Island City. That is where I found rape kits that were evidence for crime scenes, completely anonymous except for the numbers written on the side of these cardboard boxes, 16,000 of them in early 1999 when I was first elected, all collected at crime scenes in New York City, all that had not been analyzed, all that had not been processed, all representing a victim that was awaiting justice.

That backlog is heartrending. That backlog does not represent a simple number on the box. That backlog represent an individual, an individual crime. And the mystery was that it was not being stored in that refrigerated warehouse because of any bureaucratic problem. It was not being stored there because of any legal loggerhead. It came down to one thing: money.

In 1999 I was proud to introduce in this House for the first time an authorization for congressional funding to help cities and states dig out of their backlog. With former Congressman Gilman and former Congressman McCollum we passed for the first time the Backlog Elimination Act. Because of that law, now localities across this country have been able to reduce their backlogs. They have not been eliminated. Also authorized in that law was a study that we learned the problem was not just in New York City; it was in small-town sheriffs' offices all around this country, in suburbs, in communities large and small.

The analysis of those rape kits did not just provide statistics; it provided hits on cold cases. In New York City alone 154 cold cases that had been put on the shelf literally and figuratively were solved. They got leads in more than 200 other cases.

Let us remember the nature of sexual assault. Experts tell us again and again that it is a recidivist crime. Someone that we are able to catch once and take off the street could conceivably not only solve several crimes but prevent several more from happening.

Last year the gentleman from Wisconsin (Mr. GREEN) and I tried to ramp up this issue one more time. And we realized that we had in partnership the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Illinois (Mr. LAHOOD), who also saw DNA testing as an enormous opportunity. I believe we have crafted under the guidance of the gentleman from Wisconsin (Mr. SENSENBRENNER), frankly, a bill that in anyone's prism would be seen as positive. There is no reason even in this moment of pitch partisanship in this House and in the other body, even in this time there is no reason why we should sit any longer on this legislation.

I would urge in the strongest possible terms that we pass this legislation. We have passed in similar ways out of the committee and on this floor before. We have unified this House behind the issue of using DNA to bring justice to those who did crimes, justice to those who did not do crimes, and justice to those victims of crimes and their families.

I would urge in the strongest terms possible that we not allow election-year politics to stop the other body from doing justice by this legislation. I urge passage of H.R. 5107.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Speaker, let me begin by joining my voice with others in saluting the chairman. Without his tireless efforts, quite simply we would not be here today, and also, of course, the gentlewoman from New York (Mrs. MALONEY), the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Illinois (Mr. LAHOOD), the gentleman from Ohio (Mr. CHABOT), and the gentleman from New York (Mr. WEINER). Their ideas have made this bill so much better, so much stronger and we are all in their debt.

Mr. Speaker, over 300,000 women and 92,000 men are raped each year in this country, the United States. Those numbers represent lives destroyed and families shattered. Today we fight back. We will put an end to headlines like this one from CNN dated June 29, 2004: ''A suspected serial rapist on the street while his DNA sat in the police crime lab for years.''

□ 1145

The rapist in that case reported assaulting upwards of 50 women since 1988, and yet his DNA sat untested for 2½ years in an Ohio crime lab. I wish I could tell my colleagues that that case was unique. Hardly.

There are thousands and thousands and thousands of untested crime scene DNA kits collecting dust on shelves. That means that there are likely innocent Americans wrongly sitting behind bars, and even more likely, guilty Americans still walking the streets. How can we not act and act today?

This bill will help. This bill will save lives.

Title II of the bill, the Debbie Smith Act, will provide grants to State and local authorities to get rid of their backlogs, to train more experts, to ensure better handling and processing of evidence.

In fact, some estimate that it could quickly lead to solving as many as 66,000 open rape and murder cases. That is 66,000 victims and their families who would finally have a little justice and, perhaps, just perhaps, a little peace of mind.

How can we not act on this measure? How can we not offer this lifeline to victims and their families? How can we not act to prevent future crimes by tracking down those who have already attacked and will most certainly attack again?

This is good work. It is important work. I urge my colleagues' support. Let us get this done.

Mr. DELAHUNT. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. NADLER), one of the leaders on the Democratic side on the House Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, I thank the gentleman for yielding me time.

I rise in support of the Advancing Justice Through DNA Act. Although the science of DNA analysis has vastly improved our ability to identify the guilty and to exonerate the innocent, neither our laws nor the resources we have made available have allowed our criminal justice system to make full use of that technology. This legislation would go a long way toward correcting that terrible gap.

I want to congratulate, in particular, the gentleman from Massachusetts (Mr. DELAHUNT) who introduced the Innocence Protection Act several years ago and has worked tirelessly on this matter ever since. We all owe him a great debt of gratitude. No one whose innocence can be proved by DNA evidence should languish in prison because of procedural or financial obstacles to the use of that DNA evidence, and no one whose guilt can be proved by DNA evidence should remain unconvicted and free to menace others because of procedural or financial obstacles to the use of that DNA evidence.

It is imperative, in connection with one of the titles of this bill, that we eliminate the shameful backlog of untested rape kits, and this bill will go a long way towards that goal. I have worked with NOW, RAINN and Lifetime Television to raise awareness of this issue and to build consensus for decisive action. Together, we have pushed, prodded and demanded that Federal funding be provided to test these kits quickly. Today, we are one step closer to that goal.

I am pleased that this bill includes a provision very similar to the Rape Kit DNA Analysis Backlog Elimination

Act, which I introduced in March of 2002. That legislation would have provided $250 million to eliminate the rape kit backlog. I am also pleased that, like my bill and like the bill introduced by the gentleman from New York (Mr. WEINER) and the gentlewoman from New York (Mrs. MALONEY), this legislation adds funding specifically for rape kits.

But we are not there yet. These programs still need to be funded, and I am hopeful that we will not simply authorize funding for these programs, as this bill does and as I hope the Senate will go along with, but I am hopeful that we will also actually appropriate the money we are today acknowledging is needed to do the job right.

This issue is too important to ignore. Police departments must have the resources they need to solve crimes and put criminals behind bars.

This legislation represents a serious effort to combat crime, to locate and apprehend rapists, to use powerful evidence to put them in prison, and in the larger sense, it also represents a serious effort to take out of prison people who do not belong there in light of the capability of DNA evidence to prove their innocence.

We have adopted similar legislation before. I urge its adoption now, and I hope the Senate will go along.

I thank the gentleman for yielding me time.

Mr. DELAHUNT. Mr. Speaker, I yield 4½ minutes to the gentlewoman from New York (Mrs. MALONEY), who also has been a champion in terms of protecting the victims of rape and making an effort to secure the apprehension of those who perpetrated that particularly heinous crime.

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me time and for his leadership on so many important issues before this body.

Mr. Speaker, I rise in strong support of the Justice for All Act, and I would like to commend the truly heroic leadership of the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from Michigan (Ranking Member CONYERS) and the efforts of many, the gentleman from New York (Mr. NADLER), the gentleman from New York (Mr. WEINER), the gentleman from Illinois (Mr. LAHOOD) and especially the gentleman from Massachusetts (Mr. DELAHUNT) for his tireless work on the Innocence Protection Act and for my colleague, the gentleman from Wisconsin (Mr. GREEN), who has worked selflessly on passing the Debbie Smith Act for many, many years.

This marks the second time this bill has passed this body this year, and I do not understand why both bodies cannot come together to pass the same legislation, which so many people support in a bipartisan manner, that will lock up the guilty and free the innocent. The longer we delay, the longer the victims of sexual assault and rape must wait to see their attackers put in prison.

This bill includes provisions to protect the rights of crime victims, as well as legislation, the Advancing Justice Through DNA Technology Act, which includes the Debbie Smith Act and the Innocence Protection Act; and the House overwhelmingly passed, last year, both of these to improve the use of DNA technology in prosecuting criminals.

DNA is accurate, it never forgets, it cannot be intimidated by a prosecutor; and we have to put this technology to use in convicting criminals and freeing the innocent.

In the 105th Congress, I offered legislation to provide funding to process the backlog of DNA evidence in rape cases. After holding a hearing, along with former Representative Steve Horn, with a courageous rape survivor, Debbie Smith, she recounted how in 1989 she was dragged from her kitchen and raped in her backyard while her husband was asleep upstairs. She lived in fear for years because the rapist said that he would come back and kill her. Then she finally learned after 6 years that, through DNA processing, they had found a cold hit identifying her assailant, who had been jailed 6 months after her assault for another crime, but for 6 long years she literally lived in agony.

It was because of Debbie Smith's story that I introduced the Debbie Smith Act, which would help combat the epidemic of violence against women in the United States, where a sexual assault occurs every 2 minutes.

We know that DNA processing techniques could serve as a conclusive proof in countless other rape cases, and many of us were outraged when we learned that there were hundreds of thousands of backlogged rape kits collecting dust across this country, but they did not have adequate support for the crime labs and adequate government funding to process them.

The bill would accomplish several critical objectives in Title II of the bill, the Debbie Smith Act, which includes providing funding to process the backlog of DNA evidence, setting national standards for DNA evidence collection, creating a national DNA file in the FBI for rapists and criminals who cross State lines, and providing grant money for a sexual assault forensic examiner program. The police tell us if they have the evidence from the same program, it almost always leads to a conviction. It also provides funding to train law enforcement authorities on the collection and handling of DNA evidence.

I want to say that the dismal reality in this country is that only 6 percent, according to the FBI, only 6 percent of women who have been raped will ever see their attacker spend a day in jail. Yet we know that each unprocessed DNA kit represents a life like Debbie Smith's, and it represents a rapist which the FBI tells us will attack, on the average, eight times. By processing this evidence, we may be able not only to convict rapists, but to prevent them from harming other men and women in our country.

So this is tremendously important legislation, and the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Illinois (Mr. LAHOOD) have talked about other aspects of it. We should all join in passing it. I hope that every Member of this body will join in supporting this important effort.

May I add that Lifetime Television started a national petition in support of this bill. Many, many organizations, RAINN and others, have worked tirelessly with this body to pass it. We thank them, too.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding me time.

I just want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for such hard work on this bill and for making the changes that they have made to it to make it a better bill. I also want to commend the gentleman from Massachusetts (Mr. DELAHUNT) for his untiring work on this issue over so many years, and certainly we need something like this bill. We need to make sure that those who are innocent have their day in court, all they need in court.

I do have some concerns about this bill. I feel compelled to note them. There are still some problematic areas here.

For example, H.R. 5107 contains a provision permitting post-conviction DNA testing of convicts who have pleaded guilty. Even though those convicts may have not even requested DNA testing that was available at the time of their trial, this will permit defendants to reopen cases, to retraumatize victims and waste resources, even if there is no reason to think that testing will change the outcome of the case.

The bill also contains a 5-year limitation on the duration of its proposed post-conviction DNA testing remedy, but it also contains a large loophole. A convicted inmate may seek new testing more than 5 years after the conviction if they can prove that it is in the interest of justice. This is an opportunity to flout the time limits and will undoubtedly attract lawyers to do so. There is no reason to permit this testing past the 5-year mark. To do so simply invites abuse and retraumatizes victims.

A person who is actually innocent, think about it, they have every reason to seek relief promptly, to request an available test immediately. Those who seek to delay that are simply looking to hide something. They are looking to delay until it is impossible for the government to retry the case. Think about it. Years later, if we have a case where eyewitness and other testimony might conflict or actually supplement or add to DNA testing there, it is impossible to retry a case 20 years later because witnesses may be gone, other evidence may be gone. So we need to make sure

that the remedies are sought early, not later.

With that, I hope that these other concerns are addressed with the other body so that we can have a good bill on this subject.

Mr. DELAHUNT. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. RUSH), my friend, who has championed justice throughout his career. And I would point out that it was in Illinois, through the efforts of some students at the Northwestern School of Journalism that first brought this to the attention of the country, and that a former governor in Illinois, George Ryan, had the courage to raise this issue, to make it a national issue and to bring it to the attention of those who are concerned about the search for truth.

Mr. RUSH. Mr. Speaker, I rise in support of the bill, H.R. 5107.

Mr. Speaker, I want to congratulate the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the full committee, and I certainly want to congratulate and commend the gentleman from Massachusetts (Mr. DELAHUNT).

□ 1200

The gentleman's tireless work, his dedicated work over the many years has certainly borne fruit in this legislation, and I want to extend my congratulations to all those who have played such a vital role in bringing this legislation to the floor here this morning.

Mr. Speaker, the legislation that we are considering provides grants, approximately $2 billion over 5 years, to States and local governments for DNA testing. This bill would help eliminate the backlog in the testing of DNA samples from criminal defendants and inmates, including those from rape kits. It would also enhance access to DNA analysis by inmates and improve the quality of legal representation in State capital cases. But, Mr. Speaker, more importantly, this bill will also provide victims of crimes with new rights, such as the right to a reasonable, accurate and timely notice of any public court proceeding involving the crime of or the release or the escape of the accused, so vital, so necessary for the victims of crime in our country today. It would also allow victims to be reasonably heard at any public proceeding involving the release, plea or sentencing of the accused.

Mr. Speaker, as it has been stated time and time again, something is wrong with our criminal justice system here in America. I believe that the criminal justice system here in America is broken. Time and time again we have seen innocent people spend years on death row for crimes that they did not commit.

Mr. Speaker, we can all agree that a death sentence is the ultimate punishment in the criminal justice system, and the imposition of such a sentence warrants absolute certainty, a 100 percent certainty that the person accused is guilty of the crime committed. That said, Mr. Speaker, all safeguards should be utilized, including DNA testing, before capital sentences are imposed.

Mr. Speaker, the gentleman from Massachusetts (Mr. DELAHUNT) and others have alluded to the actions of our State, our Governor, and, Mr. Speaker, I am proud to stand in support of this legislation. I think it is a testimony to his courage that the Congress is now considering this bill.

Mr. DELAHUNT. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), my friend and colleague and a leader on the Committee on the Judiciary.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I wish to offer my sincere applause to the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Illinois (Mr. LAHOOD). I know the work they have done and the effective work our chairman has done. The gentleman from Wisconsin (Mr. SENSENBRENNER) has done a very effective job, along with the gentleman from Michigan (Mr. CONYERS).

I mentioned in the rule the very important elements, and I want to again refer very quickly to those important elements of this legislation and to the legislation that I introduced, H.R.89, Save Our Children: Stop the Violent Predators Against Children DNA act of 2003. This legislation that we will be passing, and I hope we can work it out with the Senate, will lay the groundwork for legislation that will help enhance victims' rights and bring about justice.

I happen to represent an organization that I have worked with over a number of years, called Justice For All, a victims' rights organization, and this is a good day for them because it does have elements of protecting or respecting victims. As the co-chair and founder of the Congressional Children's Caucus, I have deeply been impacted by the negative violent acts against our children, and I believe the legislation I coauthored will be a wonderful complement to this.

We realize the important role that archived DNA evidence played in the case of Elizabeth Smart who was kidnapped from her bedroom at knifepoint in 2002 by Mitchell, 50, and his wife, Wanda Barzee. So we realize this can be an important component to this legislation.

We also know this legislation will be helpful to the DNA labs around the country. I have mentioned the Houston judicial system, which convicted Josiah Sutton in 1998 of the rape of a woman whose body was dumped in a Fort Bend County field. The court eventually granted him bail in March after an independent lab determined that he was sentenced to 25 years in prison for a rape he did not commit, but he stayed in prison for a very long period of time.

This DNA bill will help get us back on track for the victims and the innocent. Attorney Neufeld remarked that the most important question for the people of Houston and the people of Texas is what went wrong that allowed this young man to be convicted for a crime he did not commit?

Now, Mr. Speaker, let me indicate that I happen to think that the 5-year provision on filing a motion could be extended, but I am grateful that lawyers can show that, if there is compelling evidence or show that there is an added reason to go beyond the 5 years, that they will have it. I would have preferred a straight 10-year period, because, Mr. Speaker, I can assure you that people incarcerated do not have the resources, do not hear about it, do not know, and there are not all these lawyers running around to represent incarcerated persons. This balance is for the victims' families and the tragedy that comes about.

And the last thing I will say is that I hope we look at the standards so that we can be assured of the victims' rights but also the protection of this bill. Again, this is a blow against injustice. This is a strike for justice and fairness as relates to those incarcerated unfairly or charged unfairly and for our victims. And I ask my colleagues to support this legislation.

Mr. Speaker, I rise in support of this important legislation that is the result of much work and bi-partisan collaboration. Our work on this legislation, H.R. 5107, the Justice For All Act of 2004 will have far-reaching implications for victims of violent or sexual crimes, suspected perpetrators of these crimes, and individuals who have been wrongfully implicated for the commission of these crimes. Therefore, it is vital that we have good faith collaboration among our colleagues in passing it through this body and on the Floor of the Committee of the Whole.

While I am a co-sponsor of this legislation, as I was of one of its components, H.R. 3214, the Advancing Justice Through DNA Technology Act, I hope that I am able to work with my colleagues to incorporate important provisions of legislation that I introduced, H.R. 89, the "Save Our Children: Stop the Violent Predators Against Children DNA Act of 2003" into this legislation as we move to debate before the Committee of the Whole.

As co-founder and chair of the Congressional Children's Caucus, I am deeply committed to doing everything possible to ensure the safety of our children and the expeditious capture of predators that seek to do them harm. The thrust of my legislation is to create a DNA database of child sexual offenders, to supplement the database currently maintained by each of the 50 States, so that we can better protect America's children from these criminals.

I introduced this legislation, in part, as a result of the important role that property-kept and archived DNA evidence played in the case of Elizabeth Smart, who was kidnapped from her bedroom at knifepoint in 2002 by Mitchell, 50, and his wife Wanda Barzee, 58. The safe return of Elizabeth Smart has shown

us that the involvement of DNA evidence can help prevent what otherwise might have been a tragic ending.

The technological tool that this legislation employs must be improved because it plays such a key role in streamlining and expediting our criminal justice system. Our law enforcement agencies are becoming increasingly more reliant upon the analysis of deoxyribonucleic acid (DNA) to verify or rule out the identity of a suspect or a charged individual in processing criminal cases. The more reliant we become, the more our individual rights are at stake. We must, however, significantly raise the bar of our technology and the standards of review for DNA and ballistics crime lab accreditation to minimize mistakes that cost people years of their lives.

Provided that our bipartisan coalition is fortunate enough to pass this legislation today, as I stated before, I hope to engage with my colleagues to fashion the inclusion of provisions of my legislation in the bill as transmitted to the Committee of the Whole.

On July 7, I offered an amendment to H.R. 4754, the Commerce, Justice, and State Department Appropriations bill. The Jackson-Lee amendment called for a $10 million increase of the Community Oriented Policing Services (COPS) program that deals with DNA analysis and sought to minimize the margin of error that threatens individual liberties and rights.

CRIME LAB ACCREDITATION

The certification of our crime labs for conformance to our accepted standards is done by groups such as the American Society of Crime Laboratory Directors (ASCLD). The accreditation process is part of a laboratory's quality assurance program that should also include proficiency testing, continuing education and other programs to help the laboratory give better overall service to the criminal justice system. Certification and accreditation are done via a process of self-evaluation led by individual crime laboratory directors.

Our labs are not functioning at optimum levels, and this sub-par performance translates to the miscarriage of justice and prosecution of innocent people. Improvement of lab performance begins with tighter employment policies for the lab staff. For example, the ASCLD's Credential Review Committee has a DNA Advisory Board and codified standards for its technical staff. The following was taken from its website:

DNA Advisory Board Standard 5.2.1.1 provides a mechanism for waiving the educational requirements for current technical leaders/technical managers who do not meet the degree requirements of section 5.2.1 but who otherwise qualify based on knowledge and experience. Consequently, ASCLD has established this procedure for obtaining a waiver.

One waiver is available per laboratory if the current technical leader/technical manager does not meet the degree requirements of DAB Standard 5.2.1. Waivers are available only to current technical leaders/technical managers. Waivers are permanent and portable for the recipient individual. A laboratory may request a second waiver if the first recipient leaves the employ of the laboratory.

Although experience is quite important in selecting staff, formal education and increased resources are vital when it comes to technical performance and the legal implications of that performance. I hope that the State and local grant programs found in sections 204, 206, 304, 308, and 412 will help cities like Houston vastly improve the standards of its DNA/ballistics lab accreditation.

TEXAS LAW AND CRIME LAB ACCREDITATION

In 2001, Texas passed a law formalizing a process for post-conviction access to DNA testing. The Texas Court of Criminal Appeals, however, has not applied the law as it was designed to work and has denied access to testing in a number of cases.

The Texas House passed a bill in April of last year requiring crime laboratories that test DNA to meet accreditation standards, a law designed to prevent future scandals like the one that recently plagued the Houston Police Department.

The Houston Judicial System convicted Josiah Sutton in 1998 for the rape of a woman whose body was dumped in a Fort Bend County field. But the Court eventually granted him bail in March after an independent lab determined that he was sentenced to 25 years in prison for a rape he didn't commit. An audit and an ongoing series of retesting of DNA samples by the Texas Department of Public Safety and a crime lab professional from Tarrant County revealed potential contamination problems at the subject lab as well as poor working conditions and inadequate training.

Attorney Neufeld remarked that:

[t]he most important question for the people of Houston and the people of Texas is, ''What went wrong that allowed this young man to be convicted for a crime he didn't commit?''

And it is absolutely clear that what you have going on is a system of malpractice by the Houston crime laboratory that allows its criminalists to distort and conceal evidence.

What I fear about the dangers of poor training and placement of checks may be summed up by what Neufeld added:

One of the biggest problems of . . . [crime labs] is that they [are] much more concerned with being a servant to the police and prosecutors than they [are] to science . . . [a]nd if people want to pursue a career in science, the word science has to come before law enforcement.

The objectivity that is required to make forensic science effective must be divorced from the latitude exercised by some of our law enforcement personnel. Therefore, we must include adequate technology and resources to prevent injustice and the ruination of young lives like the young Houston man, Josiah Sutton.

Furthermore, other problems with DNA testing in criminal cases affect the inmate directly. The discretion with which the decision whether to use DNA testing leaves room for inconsistent adjudication and differential treatment of convicted persons. Statutory guidelines regarding when to order the test would exclude some cases that might not meet the standards but still might deserve testing. Moreover, some inmates who seek exoneration may request executive clemency. In addition to requiring very difficult measures to achieve justice, some argue that the tests administered are inadequate because they do not provide specific, clear, and fair procedures for inmates to bring claim of innocence.

In addition to negligent handling or unskilled analysis of DNA evidence, the backlog of cases causes our criminal justice system to crumble despite the level of sophistication of our technology. Houston police have turned over about 525 case files involving DNA testing to the Harris County district attorney's office, which has said that at least 25 cases warrant re-testing, including those of seven people on death row. The numbers will grow significantly as more files are collected and analyzed, according to the assistant district attorney supervising the project.

The Fort Worth police crime lab's serology/DNA unit has been criticized recently for a backlog that was slowing down court cases. The unit's performance suffers from understaffing and overworking.

My concern as to the practice of using these DNA tests is that the inmates' civil liberties and rights to due process are continually placed into jeopardy because of a lack of resources. Furthermore, our staffing and personnel problems threaten to undermine the benefits of technology.

Mr. Speaker, with this legislation, I hope that the problems that I have enumerated can be mitigated and addressed. I support this legislation and ask that my colleagues do the same.

Mr. DELAHUNT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the issue raised by the gentleman from Arizona (Mr. FLAKE) was one of the most vexatious issues in the negotiations that are leading up to the manager's amendment, which I will offer shortly. And the most difficult of the issues that the manager's amendment deals with relates to the time limit for seeking post-conviction DNA testing.

On one side there were a group of people who wanted to have no time limit at all, and a motion could be made at any time as long as the defendant was still alive and in jail. On the other side, there were people who wanted to have a hard and fast limit, and the shorter the limitation possible they were in favor of. Those people said that defendants would simply game the system waiting until the witnesses had died and the DNA had evaporated and, consequently, there would not be enough evidence to conduct a retrial.

The compromise that was worked out, I think, is a fair one. For the first 5 years after conviction, there is a rebuttable presumption in favor of the test. After 5 years, there is a rebuttable presumption against the test, but the defendant can get a motion granted if the court finds that the applicant was incompetent at trial, there is newly discovered DNA evidence, or that denial of the motion to retest would result in manifest injustice or for good cause shown.

So, for the first 5 years, the burden is on the prosecution to show that the test should not be granted. After 5 years, the burden effectively is on the defendant to show that the test should be granted for the reasons that I have enumerated.

I believe that takes care of the concerns that the gentleman from Arizona (Mr. FLAKE) has expressed, and I would

urge adoption of the manager's amendment and overwhelming support of the bill.

Mr. Speaker, I ask unanimous consent that a letter from the National District Attorneys Association expressing support for the manager's amendment to H.R. 5107 be included in the RECORD.

NATIONAL DISTRICT ATTORNEYS ASSOCIATION,
Alexandria, VA, October 6, 2004.

Hon. JIM SENSENBRENNER,
Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

Hon. JOHN CONYERS Jr.,
Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER AND CONGRESSMAN CONYERS: As President of the National District Attorneys Association I want to express my support for the Managers Amendment that I understand has been offered to H.R. 5107 the ''Justice For All Act.''

The Amendment has addressed our major concerns with the ''Advancing Justice Through DNA Technology Act.'' The clear indication that Capital Resource Centers are not to be funded through federal funds is important as is the stipulation that the funding is to be used for training counsel in capital cases.

While the compromise standard for new trials does not reach our criteria of a ''preponderance'' it is a marked improvement over prior efforts.

The importance of DNA to our system of criminal justice cannot be over emphasized and the problems that our laboratories and courts are encountering are in our daily headlines. ''The Justice For All Act'' provides the resources desperately needed by the states to overcome serious impediments to the effective use of DNA to seek justice and truth in our criminal justice system.

Sincerely,

PAUL F. WALSH Jr.,
District Attorney, Bristol County, MA, President, National District Attorneys Association.

Ms. PRYCE of Ohio. Mr. Speaker, as a woman, a former prosecutor and judge, and Federal representative for Ohio's 15th district, I rise today in support of H.R. 5107, the Justice For All Act.

Sadly, for far too many women, the grief of rape and other forms of sexual assault is compounded by the lack of apprehension, prosecution and conviction of the perpetrator. As my community has recently witnessed first hand with the arrest of accused serial rapist Robert Patton, Jr. in the Columbus area, linking DNA obtained at rape scenes to the DNA of felons already convicted of crimes through the FBI's combined DNA Index System is often the best change we have to close a painful chapter in the lives of women who have been the victims of rape and sexual assault. It is also the best chance to put rapists behind bars before they have a chance to repeat their crimes.

Last year, the Federal government provided $100 million to speed up the processing of untested DNA through the Department of Justice and the DNA Index System. And recently, the House passed legislation to increase this amount by over 75 percent to $176 million—mirroring the President's budget request.

Funding is critical, but it is only part of the solution. Making needed improvements to the way the system operates is also essential.

That's why I signed on as an original cosponsor and plan to vote for the Justice for All Act today. This legislation will not only increase the amount of funding available for DNA analysis, but it will also lift some of the barriers that currently stand in the way of ensuring DNA technology is used effectively and efficiently. Specifically, it will focus on eliminating the backlog of DNA samples collected from crime scenes and convicted offenders and improving the DNA testing capacity of federal, state, and local crime laboratories. These two initiatives will have a direct effect on crime fighting in my state of Ohio, which has an extensive backlog of DNA samples that need to be tested.

I pledge to continue to work with my colleagues to further identify the gaps in our system and push for, and implement, effective solutions. And I call upon our partners at the state and local level to do the same. Together, with the support of law enforcement and the citizens in our community, we can put into place a speedier and fairer justice system for victims of rape and sexual assault, always keeping in mind our ultimate goal of preventing these heinous crimes in the first place.

Mr. ROYCE. Mr. Speaker, I am pleased that the Crime Victims' Rights Act was included in H.R. 5107, the Justice for All Act. I have long been an advocate of victim's rights. I am the author of the first State anti-stalking law in the country. At the Federal level, I introduced the Interstate Stalking Punishment and Prevention Act, which was signed into law, making it a felony to cross State lines to stalk someone.

As a State senator, I worked to establish rights for crime victims in California's state constitution as author and campaign co-chair of Proposition 115, the Crime Victims/Speedy Trial Initiative. I have been working for the passage of a Federal victims' rights bill for quite sometime. I introduced a victim's rights bill in the House and cosponsored the Chabot bill, included in H.R. 5107.

Because victims' rights vary from State to State, a Federal law would help ensure that all victims have at least a minimum level of rights in the criminal justice process. Our legal system must properly protect the rights of the accused and it should provide similar protection for the rights of victims. The bill establishes enhanced rights and protections for all victims of crime and spells out how these rights are to be enforced. In addition, the bill helps States implement and enforce victim's rights laws and retain their full power to protect victims in the ways most appropriate to local concerns and local needs.

This bill is a positive step forward for crime victims' rights and I look forward to it becoming law.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate on the bill has expired.

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The SPEAKER pro tempore (Mr. TERRY). The Clerk will designate the amendment:

The text of the amendment is as follows:

Amendment offered by Mr. SENSENBRENNER:

Page 2, after line 7, in the item in the table of contents relating to TITLE I, strike ''CAMBELL'' and insert ''CAMPBELL''.

Page 3, line 1, strike ''CAMBELL'' and insert ''CAMPBELL''.

Page 4, line 12, insert after ''proceeding'' the following: '', or any parole proceeding,''.

Page 4, line 16, insert after ''the court'' the following: '', after receiving clear and convincing evidence,''.

Page 4, line 18, strike ''affected'' and insert ''altered''.

Page 4, line 21, insert after ''proceeding'' the following: ''in the district court''.

Page 4, lines 21–22, strike ''or sentencing'' and insert '', sentencing, or any parole proceeding''.

Page 5, line 10, strike ''Before'' and all that follows through ''the right'' on line 11 and inserting ''Before making a determination''.

Page 7, line 2, strike ''such motion'' and insert ''any motion asserting a victim's right''.

Page 7, line 12, strike ''day,'' and all that follows through ''trial,'' and insert ''days''.

Page 7, line 13, insert after the period the following: ''If the court of appeals denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion.''.

Page 7, line 20, strike '', or'' and all that follows through the end of line 22 and insert ''. A victim may make a motion to re-open a plea or sentence only if—

''(A) the victim has asserted the right to be heard before or during the proceeding at issue and such right was denied;

''(B) the victim petitions the court of appeals for a writ of mandamus within 10 days; and

''(C) in the case of a plea, the accused has not pled to the highest offense charged.

This paragraph does not affect the victim's right to restitution as provided in title 18, United States Code.''.

Page 15, strike line 4 and all that follows through the end of the bill (titles II, III, and IV) and insert the following new titles:

TITLE II—DEBBIE SMITH ACT OF 2004

SEC. 201. SHORT TITLE.

This title may be cited as the ''Debbie Smith Act of 2004''.

SEC. 202. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) DESIGNATION OF PROGRAM; ELIGIBILITY OF LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) by amending the heading to read as follows:

''SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.'';

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or units of local government'' after ''eligible States''; and

(ii) by inserting ''or unit of local government'' after ''State'';

(B) in paragraph (2), by inserting before the period at the end the following: '', including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect''; and

(C) in paragraph (3), by striking ''within the State'';

(3) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or unit of local government'' after ''State'' both places that term appears; and

(ii) by inserting '', as required by the Attorney General'' after ''application shall'';

(B) in paragraph (1), by inserting ''or unit of local government'' after ''State'';

(C) in paragraph (3), by inserting ''or unit of local government'' after ''State'' the first place that term appears;

(D) in paragraph (4)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking ''and'' at the end;

(E) in paragraph (5)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

''(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System; and'';

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''The plan'' and inserting ''A plan pursuant to subsection (b)(1)'';

(ii) in subparagraph (A), by striking ''within the State''; and

(iii) in subparagraph (B), by striking ''within the State''; and

(B) in paragraph (2)(A), by inserting ''and units of local government'' after ''States'';

(5) in subsection (e)—

(A) in paragraph (1), by inserting ''or local government'' after ''State'' both places that term appears; and

(B) in paragraph (2), by inserting ''or unit of local government'' after ''State'';

(6) in subsection (f), in the matter preceding paragraph (1), by inserting ''or unit of local government'' after ''State'';

(7) in subsection (g)—

(A) in paragraph (1), by inserting ''or unit of local government'' after ''State''; and

(B) in paragraph (2), by inserting ''or units of local government'' after ''States''; and

(8) in subsection (h), by inserting ''or unit of local government'' after ''State'' both places that term appears.

(b) REAUTHORIZATION AND EXPANSION OF PROGRAM.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting ''(1) or'' before ''(2)''; and

(B) by inserting at the end the following:

''(4) To collect DNA samples specified in paragraph (1).

''(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.'';

(2) in subsection (b), as amended by this section, by inserting at the end the following:

''(7) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4).'';

(3) by amending subsection (c) to read as follows:

''(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

''(1) IN GENERAL.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

''(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

''(B) allocates grants among eligible entities fairly and efficiently to address jurisdictions in which significant backlogs exist, by considering—

''(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

''(ii) the population in the jurisdiction; and

''(iii) the number of part 1 violent crimes in the jurisdiction.

''(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

''(3) LIMITATION.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

''(A) For fiscal year 2005, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(B) For fiscal year 2006, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(C) For fiscal year 2007, not less than 45 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(D) For fiscal year 2008, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(E) For fiscal year 2009, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).'';

(4) in subsection (g)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.'';

(5) in subsection (j), by striking paragraphs (1) and (2) and inserting the following:

''(1) $151,000,000 for fiscal year 2005;

''(2) $151,000,000 for fiscal year 2006;

''(3) $151,000,000 for fiscal year 2007;

''(4) $151,000,000 for fiscal year 2008; and

''(5) $151,000,000 for fiscal year 2009.''; and

(6) by adding at the end the following:

''(k) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

''(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

''(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community—

''(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which participates in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards;

''(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

''(C) to support future capacity building efforts; and

''(3) in the form of additional grants to nonprofit professional associations actively involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

''(l) USE OF FUNDS FOR OTHER FORENSIC SCIENCES.—The Attorney General may award a grant under this section to a State or unit of local government to alleviate a backlog of cases with respect to a forensic science other than DNA analysis if the State or unit of local government—

''(1) certifies to the Attorney General that in such State or unit—

''(A) all of the purposes set forth in subsection (a) have been met;

''(B) a significant backlog of casework is not waiting for DNA analysis; and

''(C) there is no need for significant laboratory equipment, supplies, or additional personnel for timely DNA processing of casework or offender samples; and

''(2) demonstrates to the Attorney General that such State or unit requires assistance in alleviating a backlog of cases involving a forensic science other than DNA analysis.

''(m) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act has undergone an external audit conducted to determine whether the laboratory is in compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.''.

SEC. 203. EXPANSION OF COMBINED DNA INDEX SYSTEM.

(a) INCLUSION OF ALL DNA SAMPLES FROM STATES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1), by striking ''of persons convicted of crimes;'' and inserting the following: ''of—

''(A) persons convicted of crimes;

''(B) persons who have been charged in an indictment or information with a crime; and

''(C) other persons whose DNA samples are collected under applicable legal authorities, provided that DNA profiles from arrestees who have not been charged in an indictment or information with a crime, and DNA samples that are voluntarily submitted solely for elimination purposes shall not be included in the National DNA Index System;''; and

(2) in subsection (d)(2)—

(A) by striking ''if the responsible agency'' and inserting ''if—

''(i) the responsible agency'';

(B) by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(ii) the person has not been convicted of an offense on the basis of which that analysis was or could have been included in the index, and all charges for which the analysis was or could have been included in the index have been dismissed or resulted in acquittal.''.

(b) FELONS CONVICTED OF FEDERAL CRIMES.—Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

''(d) QUALIFYING FEDERAL OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

''(1) Any felony.

''(2) Any offense under chapter 109A of title 18, United States Code.

''(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

''(4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).''.

(c) MILITARY OFFENSES.—Section 1565(d) of title 10, United States Code, is amended to read as follows:

''(d) QUALIFYING MILITARY OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

''(1) Any offense under the Uniform Code of Military Justice for which a sentence of confinement for more than one year may be imposed.

''(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d))).''.

(d) KEYBOARD SEARCHES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132), as amended by subsection (a), is further amended by adding at the end the following new subsection:

''(e) AUTHORITY FOR KEYBOARD SEARCHES.—

''(1) IN GENERAL.—The Director shall ensure that any person who is authorized to access the index described in subsection (a) for purposes of including information on DNA identification records or DNA analyses in that index may also access that index for purposes of carrying out a one-time keyboard search on information obtained from any DNA sample lawfully collected for a criminal justice purpose except for a DNA sample voluntarily submitted solely for elimination purposes.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'keyboard search' means a search under which information obtained from a DNA sample is compared with information in the index without resulting in the information obtained from a DNA sample being included in the index.

''(3) NO PREEMPTION.—This subsection shall not be construed to preempt State law.''

(e) INCREASED PENALTIES FOR MISUSE OF DNA ANALYSES.—(1) Section 210305(c)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14133(c)(2)) is amended by striking ''$100,000'' and inserting ''$250,000, or imprisoned for a period of not more than one year, or both''.

(2) Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended by striking ''$100,000'' and inserting ''$250,000, or imprisoned for a period of not more than one year, or both''.

(f) REPORT TO CONGRESS.—If the Department of Justice plans to modify or supplement the core genetic markers needed for compatibility with the CODIS system, it shall notify the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives in writing not later than 180 days before any change is made and explain the reasons for such change.

SEC. 204. TOLLING OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3297. Cases involving DNA evidence

''In a case in which DNA testing implicates an identified person in the commission of a felony, except for a felony offense under chapter 109A, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3297. Cases involving DNA evidence.''.

(c) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section if the applicable limitation period has not yet expired.

SEC. 205. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by inserting ''dating violence,'' after ''domestic violence,'';

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

''(1) DATING VIOLENCE.—The term 'dating violence' means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of—

''(A) the length of the relationship;

''(B) the type of relationship; and

''(C) the frequency of interaction between the persons involved in the relationship.''; and

(C) in paragraph (3), as redesignated by subparagraph (A), by inserting ''dating violence,'' after ''domestic violence,'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting '', dating violence,'' after ''between domestic violence''; and

(ii) by inserting ''dating violence,'' after ''victims of domestic violence,'';

(B) in paragraph (2), by inserting ''dating violence,'' after ''domestic violence,''; and

(C) in paragraph (3), by inserting ''dating violence,'' after ''domestic violence,'';

(4) in subsection (d)—

(A) in paragraph (1), by inserting '', dating violence,'' after ''domestic violence'';

(B) in paragraph (2), by inserting '', dating violence,'' after ''domestic violence'';

(C) in paragraph (3), by inserting '', dating violence,'' after ''domestic violence''; and

(D) in paragraph (4), by inserting ''dating violence,'' after ''domestic violence,'';

(5) in subsection (e), by inserting ''dating violence,'' after ''domestic violence,''; and

(6) in subsection (f)(2)(A), by inserting ''dating violence,'' after ''domestic violence,''.

SEC. 206. ENSURING PRIVATE LABORATORY ASSISTANCE IN ELIMINATING DNA BACKLOG.

Section 2(d)(3) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(d)(3)) is amended to read as follows:

''(3) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

''(A) IN GENERAL.—A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services, even if the laboratory makes a reasonable profit for the services.

''(B) REDEMPTION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated on a nonprofit or forprofit basis, by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

''(C) PAYMENTS.—The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).''.

TITLE III—DNA SEXUAL ASSAULT JUSTICE ACT OF 2004

SEC. 301. SHORT TITLE.

This title may be cited as the ''DNA Sexual Assault Justice Act of 2004''.

SEC. 302. ENSURING PUBLIC CRIME LABORATORY COMPLIANCE WITH FEDERAL STANDARDS.

Section 210304(b)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14132(b)(2)) is amended to read as follows:

''(2) prepared by laboratories that—

''(A) not later than 2 years after the date of enactment of the DNA Sexual Assault Justice Act of 2004, have been accredited by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science community; and

''(B) undergo external audits, not less than once every 2 years, that demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation; and''.

SEC. 303. DNA TRAINING AND EDUCATION FOR LAW ENFORCEMENT, CORRECTIONAL PERSONNEL, AND COURT OFFICERS.

(a) IN GENERAL.—The Attorney General shall make grants to provide training, technical assistance, education, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by—

(1) law enforcement personnel, including police officers and other first responders, evidence technicians, investigators, and others who collect or examine evidence of crime;

(2) court officers, including State and local prosecutors, defense lawyers, and judges;

(3) forensic science professionals; and

(4) corrections personnel, including prison and jail personnel, and probation, parole, and other officers involved in supervision.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $12,500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 304. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, equipment, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other professionals involved in treating victims of sexual assault and sexual assault examination programs, including SANE (Sexual Assault Nurse Examiner), SAFE (Sexual Assault Forensic Examiner), and SART (Sexual Assault Response Team).

(b) ELIGIBLE ENTITY.—For purposes of this section, the term ''eligible entity'' includes—

(1) States;

(2) units of local government; and

(3) sexual assault examination programs, including—

(A) sexual assault nurse examiner (SANE) programs;

(B) sexual assault forensic examiner (SAFE) programs;

(C) sexual assault response team (SART) programs;

(D) State sexual assault coalitions;

(E) medical personnel, including doctors, medical examiners, coroners, and nurses, involved in treating victims of sexual assault; and

(F) victim service providers involved in treating victims of sexual assault.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 305. DNA RESEARCH AND DEVELOPMENT.

(a) IMPROVING DNA TECHNOLOGY.—The Attorney General shall make grants for research and development to improve forensic

DNA technology, including increasing the identification accuracy and efficiency of DNA analysis, decreasing time and expense, and increasing portability.

(b) DEMONSTRATION PROJECTS.—The Attorney General shall make grants to appropriate entities under which research is carried out through demonstration projects involving coordinated training and commitment of resources to law enforcement agencies and key criminal justice participants to demonstrate and evaluate the use of forensic DNA technology in conjunction with other forensic tools. The demonstration projects shall include scientific evaluation of the public safety benefits, improvements to law enforcement operations, and cost-effectiveness of increased collection and use of DNA evidence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 306. NATIONAL FORENSIC SCIENCE COMMISSION.

(a) APPOINTMENT.—The Attorney General shall appoint a National Forensic Science Commission (in this section referred to as the ''Commission''), composed of persons experienced in criminal justice issues, including persons from the forensic science and criminal justice communities, to carry out the responsibilities under subsection (b).

(b) RESPONSIBILITIES.—The Commission shall—

(1) assess the present and future resource needs of the forensic science community;

(2) make recommendations to the Attorney General for maximizing the use of forensic technologies and techniques to solve crimes and protect the public;

(3) identify potential scientific advances that may assist law enforcement in using forensic technologies and techniques to protect the public;

(4) make recommendations to the Attorney General for programs that will increase the number of qualified forensic scientists available to work in public crime laboratories;

(5) disseminate, through the National Institute of Justice, best practices concerning the collection and analyses of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(6) examine additional issues pertaining to forensic science as requested by the Attorney General;

(7) examine Federal, State, and local privacy protection statutes, regulations, and practices relating to access to, or use of, stored DNA samples or DNA analyses, to determine whether such protections are sufficient;

(8) make specific recommendations to the Attorney General, as necessary, to enhance the protections described in paragraph (7) to ensure—

(A) the appropriate use and dissemination of DNA information;

(B) the accuracy, security, and confidentiality of DNA information;

(C) the timely removal and destruction of obsolete, expunged, or inaccurate DNA information; and

(D) that any other necessary measures are taken to protect privacy; and

(9) provide a forum for the exchange and dissemination of ideas and information in furtherance of the objectives described in paragraphs (1) through (8).

(c) PERSONNEL; PROCEDURES.—The Attorney General shall—

(1) designate the Chair of the Commission from among its members;

(2) designate any necessary staff to assist in carrying out the functions of the Commission; and

(3) establish procedures and guidelines for the operations of the Commission.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 307. FBI DNA PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $42,100,000 for each of fiscal years 2005 through 2009 to carry out the DNA programs and activities described under subsection (b).

(b) PROGRAMS AND ACTIVITIES.—The Federal Bureau of Investigation may use any amounts appropriated pursuant to subsection (a) for—

(1) nuclear DNA analysis;

(2) mitochondrial DNA analysis;

(3) regional mitochondrial DNA laboratories;

(4) the Combined DNA Index System;

(5) the Federal Convicted Offender DNA Program; and

(6) DNA research and development.

SEC. 308. DNA IDENTIFICATION OF MISSING PERSONS.

(a) IN GENERAL.—The Attorney General shall make grants to promote the use of forensic DNA technology to identify missing persons and unidentified human remains.

(b) REQUIREMENT.—Each State or unit of local government that receives funding under this section shall be required to submit the DNA profiles of such missing persons and unidentified human remains to the National Missing Persons DNA Database of the Federal Bureau of Investigation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 309. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED DISCLOSURE OR USE OF DNA INFORMATION.

Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended to read as follows:

''(c) CRIMINAL PENALTY.—A person who knowingly discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it, or obtains or uses, without authorization, such sample or result, shall be fined not more than $250,000, or imprisoned for a period of not more than one year. Each instance of disclosure, obtaining, or use shall constitute a separate offense under this subsection.''.

SEC. 310. TRIBAL COALITION GRANTS.

(a) IN GENERAL.—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

''(d) TRIBAL COALITION GRANTS.—

''(1) PURPOSE.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

''(A) increasing awareness of domestic violence and sexual assault against American Indian and Alaska Native women;

''(B) enhancing the response to violence against American Indian and Alaska Native women at the tribal, Federal, and State levels; and

''(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to American Indian women victimized by domestic and sexual violence.

''(2) GRANTS TO TRIBAL COALITIONS.—The Attorney General shall award grants under paragraph (1) to—

''(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against American Indian and Alaska Native women; and

''(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against American Indian and Alaska Native women.

''(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).''.

(b) TECHNICAL AMENDMENT.—Effective as of November 2, 2002, and as if included therein as enacted, Public Law 107–273 (116 Stat. 1789) is amended in section 402(2) by striking ''sections 2006 through 2011'' and inserting ''sections 2007 through 2011''.

(c) AMOUNTS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (as redesignated by section 402(2) of Public Law 107–273, as amended by subsection (b)) is amended by amending subsection (b)(4) (42 U.S.C. 3796gg–1(b)(4)) to read as follows:

''(4) 1/54 shall be available for grants under section 2001(d);''.

SEC. 311. EXPANSION OF PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANT PROGRAM.

(a) FORENSIC BACKLOG ELIMINATION GRANTS.—Section 2804 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797m) is amended—

(1) in subsection (a)—

(A) by striking ''shall use the grant to carry out'' and inserting ''shall use the grant to do any one or more of the following:

''(1) To carry out''; and

(B) by adding at the end the following:

''(2) To eliminate a backlog in the analysis of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence.

''(3) To train, assist, and employ forensic laboratory personnel, as needed, to eliminate such a backlog.'';

(2) in subsection (b), by striking ''under this part'' and inserting ''for the purpose set forth in subsection (a)(1)''; and

(3) by adding at the end the following:

''(e) BACKLOG DEFINED.—For purposes of this section, a backlog in the analysis of forensic science evidence exists if such evidence—

''(1) has been stored in a laboratory, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility; and

''(2) has not been subjected to all appropriate forensic testing because of a lack of resources or personnel.''.

(b) EXTERNAL AUDITS.—Section 2802 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797k) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) a certification that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees or contractors of any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the State that will receive a portion of the grant amount.''.

(c) THREE-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(24) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(24)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(G) $20,000,000 for fiscal year 2007;

''(H) $20,000,000 for fiscal year 2008; and

''(I) $20,000,000 for fiscal year 2009.''.

(d) TECHNICAL AMENDMENT.—Section 1001(a) of such Act, as amended by subsection (c), is further amended by realigning paragraphs (24) and (25) so as to be flush with the left margin.

SEC. 312. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of this title and the amendments made by this title.

(b) CONTENTS.—The report submitted under subsection (a) shall include a description of—

(1) the progress made by Federal, State, and local entities in—

(A) collecting and entering DNA samples from offenders convicted of qualifying offenses for inclusion in the Combined DNA Index System (referred to in this subsection as ''CODIS'');

(B) analyzing samples from crime scenes, including evidence collected from sexual assaults and other serious violent crimes, and entering such DNA analyses in CODIS; and

(C) increasing the capacity of forensic laboratories to conduct DNA analyses;

(2) the priorities and plan for awarding grants among eligible States and units of local government to ensure that the purposes of this title are carried out;

(3) the distribution of grant amounts under this title among eligible States and local governments, and whether the distribution of such funds has served the purposes of the Debbie Smith DNA Backlog Grant Program;

(4) grants awarded and the use of such grants by eligible entities for DNA training and education programs for law enforcement, correctional personnel, court officers, medical personnel, victim service providers, and other personnel authorized under sections 303 and 304;

(5) grants awarded and the use of such grants by eligible entities to conduct DNA research and development programs to improve forensic DNA technology, and implement demonstration projects under section 305;

(6) the steps taken to establish the National Forensic Science Commission, and the activities of the Commission under section 306;

(7) the use of funds by the Federal Bureau of Investigation under section 307;

(8) grants awarded and the use of such grants by eligible entities to promote the use of forensic DNA technology to identify missing persons and unidentified human remains under section 308;

(9) grants awarded and the use of such grants by eligible entities to eliminate forensic science backlogs under the amendments made by section 202;

(10) State compliance with the requirements set forth in section 313; and

(11) any other matters considered relevant by the Attorney General.

TITLE IV—INNOCENCE PROTECTION ACT OF 2004

SEC. 401. SHORT TITLE.

This title may be cited as the ''Innocence Protection Act of 2004''.

Subtitle A—Exonerating the Innocent Through DNA Testing

SEC. 411. FEDERAL POST-CONVICTION DNA TESTING.

(a) FEDERAL CRIMINAL PROCEDURE.—

(1) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 228 the following:

''CHAPTER 228A—POST-CONVICTION DNA TESTING

''§ 3600. DNA testing

''(a) IN GENERAL.—Upon a written motion by an individual under a sentence of imprisonment or death pursuant to a conviction for a Federal offense (referred to in this section as the 'applicant'), the court that entered the judgment of conviction shall order DNA testing of specific evidence if the court finds that all of the following apply:

''(1) The applicant asserts, under penalty of perjury, that the applicant is actually innocent of—

''(A) the Federal offense for which the applicant is under a sentence of imprisonment or death; or

''(B) another Federal or State offense, if—

''(i) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or new sentencing hearing; and

''(ii) in the case of a State offense—

''(I) the applicant demonstrates that there is no adequate remedy under State law to permit DNA testing of the specified evidence relating to the State offense; and

''(II) to the extent available, the applicant has exhausted all remedies available under State law for requesting DNA testing of specified evidence relating to the State offense.

''(2) The specific evidence to be tested was secured in relation to the investigation or prosecution of the Federal or State offense referenced in the applicant's assertion under paragraph (1).

''(3) The specific evidence to be tested—

''(A) was not previously subjected to DNA testing and the applicant did not—

''(i) knowingly and voluntarily waive the right to request DNA testing of that evidence in a court proceeding after the date of enactment of the Innocence Protection Act of 2004; or

''(ii) knowingly fail to request DNA testing of that evidence in a prior motion for postconviction DNA testing; or

''(B) was previously subjected to DNA testing and the applicant is requesting DNA testing using a new method or technology that is substantially more probative than the prior DNA testing.

''(4) The specific evidence to be tested is in the possession of the Government and has been subject to a chain of custody and retained under conditions sufficient to ensure that such evidence has not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed DNA testing.

''(5) The proposed DNA testing is reasonable in scope, uses scientifically sound methods, and is consistent with accepted forensic practices.

''(6) The applicant identifies a theory of defense that—

''(A) is not inconsistent with an affirmative defense presented at trial; and

''(B) would establish the actual innocence of the applicant of the Federal or State offense referenced in the applicant's assertion under paragraph (1).

''(7) If the applicant was convicted following a trial, the identity of the perpetrator was at issue in the trial.

''(8) The proposed DNA testing of the specific evidence may produce new material evidence that would—

''(A) support the theory of defense referenced in paragraph (6); and

''(B) raise a reasonable probability that the applicant did not commit the offense.

''(9) The applicant certifies that the applicant will provide a DNA sample for purposes of comparison.

''(10) The motion is made in a timely fashion, subject to the following conditions:

''(A) There shall be a rebuttable presumption of timeliness if the motion is made within 60 months of enactment of the Justice For All Act of 2004 or within 36 months of conviction, whichever comes later. Such presumption may be rebutted upon a showing—

''(i) that the applicant's motion for a DNA test is based solely upon information used in a previously denied motion; or

''(ii) of clear and convincing evidence that applicant's filing is done solely to cause delay or harass.

''(B) There shall be a rebuttable presumption against timeliness for any motion not satisfying subparagraph (A) above. Such presumption may be rebutted upon the court's finding—

''(i) that the applicant was or is incompetent and such incompetence substantially contributed to the delay in the applicant's motion for a DNA test;

''(ii) the evidence to be tested is newly discovered DNA evidence;

''(iii) that applicant's motion is not based solely upon the applicant's own assertion of innocence and, after considering all relevant facts and circumstances surrounding the motion, a denial would result in a manifest injustice; or

''(iv) upon good cause shown.

''(C) For purposes of this paragraph—

''(i) the term 'incompetence' has the meaning as defined in section 4241 of title 18, United States Code;

''(ii) the term 'manifest' means that which is unmistakable, clear, plain, or indisputable and requires that the opposite conclusion be clearly evident.

''(b) NOTICE TO THE GOVERNMENT; PRESERVATION ORDER; APPOINTMENT OF COUNSEL.—

''(1) NOTICE.—Upon the receipt of a motion filed under subsection (a), the court shall—

''(A) notify the Government; and

''(B) allow the Government a reasonable time period to respond to the motion.

''(2) PRESERVATION ORDER.—To the extent necessary to carry out proceedings under this section, the court shall direct the Government to preserve the specific evidence relating to a motion under subsection (a).

''(3) APPOINTMENT OF COUNSEL.—The court may appoint counsel for an indigent applicant under this section in the same manner as in a proceeding under section 3006A(a)(2)(B).

''(c) TESTING PROCEDURES.—

''(1) IN GENERAL.—The court shall direct that any DNA testing ordered under this section be carried out by the Federal Bureau of Investigation.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the court may order DNA testing by another qualified laboratory if the court makes all necessary orders to ensure the integrity of the specific evidence and the reliability of the testing process and test results.

''(3) COSTS.—The costs of any DNA testing ordered under this section shall be paid—

''(A) by the applicant; or

''(B) in the case of an applicant who is indigent, by the Government.

''(d) TIME LIMITATION IN CAPITAL CASES.—In any case in which the applicant is sentenced to death—

''(1) any DNA testing ordered under this section shall be completed not later than 60 days after the date on which the Government responds to the motion filed under subsection (a); and

''(2) not later than 120 days after the date on which the DNA testing ordered under this section is completed, the court shall order

any post-testing procedures under subsection (f) or (g), as appropriate.

''(e) REPORTING OF TEST RESULTS.—

''(1) IN GENERAL.—The results of any DNA testing ordered under this section shall be simultaneously disclosed to the court, the applicant, and the Government.

''(2) NDIS.—The Government shall submit any test results relating to the DNA of the applicant to the National DNA Index System (referred to in this subsection as 'NDIS').

''(3) RETENTION OF DNA SAMPLE.—

''(A) ENTRY INTO NDIS.—If the DNA test results obtained under this section are inconclusive or show that the applicant was the source of the DNA evidence, the DNA sample of the applicant may be retained in NDIS.

''(B) MATCH WITH OTHER OFFENSE.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant results in a match between the DNA sample of the applicant and another offense, the Attorney General shall notify the appropriate agency and preserve the DNA sample of the applicant.

''(C) NO MATCH.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant does not result in a match between the DNA sample of the applicant and another offense, the Attorney General shall destroy the DNA sample of the applicant and ensure that such information is not retained in NDIS if there is no other legal authority to retain the DNA sample of the applicant in NDIS.

''(f) POST-TESTING PROCEDURES; INCONCLUSIVE AND INCULPATORY RESULTS.—

''(1) INCONCLUSIVE RESULTS.—If DNA test results obtained under this section are inconclusive, the court may order further testing, if appropriate, or may deny the applicant relief.

''(2) INCULPATORY RESULTS.—If DNA test results obtained under this section show that the applicant was the source of the DNA evidence, the court shall—

''(A) deny the applicant relief; and

''(B) on motion of the Government—

''(i) make a determination whether the applicant's assertion of actual innocence was false, and, if the court makes such a finding, the court may hold the applicant in contempt;

''(ii) assess against the applicant the cost of any DNA testing carried out under this section;

''(iii) forward the finding to the Director of the Bureau of Prisons, who, upon receipt of such a finding, may deny, wholly or in part, the good conduct credit authorized under section 3632 on the basis of that finding;

''(iv) if the applicant is subject to the jurisdiction of the United States Parole Commission, forward the finding to the Commission so that the Commission may deny parole on the basis of that finding; and

''(v) if the DNA test results relate to a State offense, forward the finding to any appropriate State official.

''(3) SENTENCE.—In any prosecution of an applicant under chapter 79 for false assertions or other conduct in proceedings under this section, the court, upon conviction of the applicant, shall sentence the applicant to a term of imprisonment of not less than 3 years, which shall run consecutively to any other term of imprisonment the applicant is serving.

''(g) POST-TESTING PROCEDURES; MOTION FOR NEW TRIAL OR RESENTENCING.—

''(1) IN GENERAL.—Notwithstanding any law that would bar a motion under this paragraph as untimely, if DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, the applicant may file a motion for a new trial or resentencing, as appropriate. The court shall establish a reasonable schedule for the applicant to file such a motion and for the Government to respond to the motion.

''(2) STANDARD FOR GRANTING MOTION FOR NEW TRIAL OR RESENTENCING.—The court shall grant the motion of the applicant for a new trial or resentencing, as appropriate, if the DNA test results, when considered with all other evidence in the case (regardless of whether such evidence was introduced at trial), establish by compelling evidence that a new trial would result in an acquittal of—

''(A) in the case of a motion for a new trial, the Federal offense for which the applicant is under a sentence of imprisonment or death; and

''(B) in the case of a motion for resentencing, another Federal or State offense, if evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or a new sentencing proceeding.

''(h) OTHER LAWS UNAFFECTED.—

''(1) POST-CONVICTION RELIEF.—Nothing in this section shall affect the circumstances under which a person may obtain DNA testing or post-conviction relief under any other law.

''(2) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.

''(3) NOT A MOTION UNDER SECTION 2255.—A motion under this section shall not be considered to be a motion under section 2255 for purposes of determining whether the motion or any other motion is a second or successive motion under section 2255.

''§ 3600A. Preservation of biological evidence

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Government shall preserve biological evidence that was secured in the investigation or prosecution of a Federal offense, if a defendant is under a sentence of imprisonment for such offense.

''(b) DEFINED TERM.—For purposes of this section, the term 'biological evidence' means—

''(1) a sexual assault forensic examination kit; or

''(2) semen, blood, saliva, hair, skin tissue, or other identified biological material.

''(c) APPLICABILITY.—Subsection (a) shall not apply if—

''(1) a court has denied a request or motion for DNA testing of the biological evidence by the defendant under section 3600, and no appeal is pending;

''(2) the defendant knowingly and voluntarily waived the right to request DNA testing of the biological evidence in a court proceeding conducted after the date of enactment of the Innocence Protection Act of 2004;

''(3) after a conviction becomes final and the defendant has exhausted all opportunities for direct review of the conviction, the defendant is notified that the biological evidence may be destroyed and the defendant does not file a motion under section 3600 within 180 days of receipt of the notice;

''(4)(A) the evidence must be returned to its rightful owner, or is of such a size, bulk, or physical character as to render retention impracticable; and

''(B) the Government takes reasonable measures to remove and preserve portions of the material evidence sufficient to permit future DNA testing; or

''(5) the biological evidence has already been subjected to DNA testing under section 3600 and the results included the defendant as the source of such evidence.

''(d) OTHER PRESERVATION REQUIREMENT.—Nothing in this section shall preempt or supersede any statute, regulation, court order, or other provision of law that may require evidence, including biological evidence, to be preserved.

''(e) REGULATIONS.—Not later than 180 days after the date of enactment of the Innocence Protection Act of 2004, the Attorney General shall promulgate regulations to implement and enforce this section, including appropriate disciplinary sanctions to ensure that employees comply with such regulations.

''(f) CRIMINAL PENALTY.—Whoever knowingly and intentionally destroys, alters, or tampers with biological evidence that is required to be preserved under this section with the intent to prevent that evidence from being subjected to DNA testing or prevent the production or use of that evidence in an official proceeding, shall be fined under this title, imprisoned for not more than 5 years, or both.

''(g) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 228 the following:

''228A. Post-conviction DNA testing ... 3600''.

(b) SYSTEM FOR REPORTING MOTIONS.—

(1) ESTABLISHMENT.—The Attorney General shall establish a system for reporting and tracking motions filed in accordance with section 3600 of title 18, United States Code.

(2) OPERATION.—In operating the system established under paragraph (1), the Federal courts shall provide to the Attorney General any requested assistance in operating such a system and in ensuring the accuracy and completeness of information included in that system.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that contains—

(A) a list of motions filed under section 3600 of title 18, United States Code, as added by this title;

(B) whether DNA testing was ordered pursuant to such a motion;

(C) whether the applicant obtained relief on the basis of DNA test results; and

(D) whether further proceedings occurred following a granting of relief and the outcome of such proceedings.

(4) ADDITIONAL INFORMATION.—The report required to be submitted under paragraph (3) may include any other information the Attorney General determines to be relevant in assessing the operation, utility, or costs of section 3600 of title 18, United States Code, as added by this title, and any recommendations the Attorney General may have relating to future legislative action concerning that section.

(c) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section shall take effect on the date of enactment of this Act and shall apply with respect to any offense committed, and to any judgment of conviction entered, before, on, or after that date of enactment.

SEC. 412. KIRK BLOODSWORTH POST-CONVICTION DNA TESTING GRANT PROGRAM.

(a) IN GENERAL.—The Attorney General shall establish the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program to award grants to States to help defray the costs of post-conviction DNA testing.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

(c) STATE DEFINED.—For purposes of this section, the term ''State'' means a State of the United States, the District of Columbia,

the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 413. INCENTIVE GRANTS TO STATES TO ENSURE CONSIDERATION OF CLAIMS OF ACTUAL INNOCENCE.

For each of fiscal years 2005 through 2009, all funds appropriated to carry out sections 303, 305, 308, and 412 shall be reserved for grants to eligible entities that—

(1) meet the requirements under section 303, 305, 308, or 412, as appropriate; and

(2) demonstrate that the State in which the eligible entity operates—

(A) provides post-conviction DNA testing of specified evidence—

(i) under a State statute enacted before the date of enactment of this Act (or extended or renewed after such date), to persons convicted after trial and under a sentence of imprisonment or death for a State felony offense, in a manner that ensures a reasonable process for resolving claims of actual innocence; or

(ii) under a State statute enacted after the date of enactment of this Act, or under a State rule, regulation, or practice, to persons under a sentence of imprisonment or death for a State felony offense, in a manner comparable to section 3600(a) of title 18, United States Code (provided that the State statute, rule, regulation, or practice may make post-conviction DNA testing available in cases in which such testing is not required by such section), and if the results of such testing exclude the applicant, permits the applicant to apply for post-conviction relief, notwithstanding any provision of law that would otherwise bar such application as untimely; and

(B) preserves biological evidence secured in relation to the investigation or prosecution of a State offense—

(i) under a State statute or a State or local rule, regulation, or practice, enacted or adopted before the date of enactment of this Act (or extended or renewed after such date), in a manner that ensures that reasonable measures are taken by all jurisdictions within the State to preserve such evidence; or

(ii) under a State statute or a State or local rule, regulation, or practice, enacted or adopted after the date of enactment of this Act, in a manner comparable to section 3600A of title 18, United States Code, if—

(I) all jurisdictions within the State comply with this requirement; and

(II) such jurisdictions may preserve such evidence for longer than the period of time that such evidence would be required to be preserved under such section 3600A.

Subtitle B—Improving the Quality of Representation in State Capital Cases

SEC. 421. CAPITAL REPRESENTATION IMPROVEMENT GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.

(b) DEFINED TERM.—In this section, the term ''legal representation'' means legal counsel and investigative, expert, and other services necessary for competent representation.

(c) USE OF FUNDS.—Grants awarded under subsection (a)—

(1) shall be used to establish, implement, or improve an effective system for providing competent legal representation to—

(A) indigents charged with an offense subject to capital punishment;

(B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and

(C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States; and

(2) shall not be used to fund, directly or indirectly, representation in specific capital cases.

(d) APPORTIONMENT OF FUNDS.—

(1) IN GENERAL.—Of the funds awarded under subsection (a)—

(A) not less than 75 percent shall be used to carry out the purpose described in subsection (c)(1)(A); and

(B) not more than 25 percent shall be used to carry out the purpose described in subsection (c)(1)(B).

(2) WAIVER.—The Attorney General may waive the requirement under this subsection for good cause shown.

(e) EFFECTIVE SYSTEM.—As used in subsection (c)(1), an effective system for providing competent legal representation is a system that—

(1) invests the responsibility for appointing qualified attorneys to represent indigents in capital cases—

(A) in a public defender program that relies on staff attorneys, members of the private bar, or both, to provide representation in capital cases;

(B) in an entity established by statute or by the highest State court with jurisdiction in criminal cases, which is composed of individuals with demonstrated knowledge and expertise in capital representation; or

(C) pursuant to a statutory procedure enacted before the date of the enactment of this Act under which the trial judge is required to appoint qualified attorneys from a roster maintained by a State or regional selection committee or similar entity; and

(2) requires the program described in paragraph (1)(A), the entity described in paragraph (1)(B), or an appropriate entity designated pursuant to the statutory procedure described in paragraph (1)(C), as applicable, to—

(A) establish qualifications for attorneys who may be appointed to represent indigents in capital cases;

(B) establish and maintain a roster of qualified attorneys;

(C) except in the case of a selection committee or similar entity described in paragraph (1)(C), assign 2 attorneys from the roster to represent an indigent in a capital case, or provide the trial judge a list of not more than 2 pairs of attorneys from the roster, from which 1 pair shall be assigned, provided that, in any case in which the State elects not to seek the death penalty, a court may find, subject to any requirement of State law, that a second attorney need not remain assigned to represent the indigent to ensure competent representation;

(D) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases;

(E)(i) monitor the performance of attorneys who are appointed and their attendance at training programs; and

(ii) remove from the roster attorneys who—

(I) fail to deliver effective representation or engage in unethical conduct;

(II) fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs; or

''(III) during the past 5 years, have been sanctioned by a bar association or court for ethical misconduct relating to the attorney's conduct as defense counsel in a criminal case in Federal or State court; and

(F) ensure funding for the cost of competent legal representation by the defense team and outside experts selected by counsel, who shall be compensated—

(i) in the case of a State that employs a statutory procedure described in paragraph (1)(C), in accordance with the requirements of that statutory procedure; and

(ii) in all other cases, as follows:

(I) Attorneys employed by a public defender program shall be compensated according to a salary scale that is commensurate with the salary scale of the prosecutor's office in the jurisdiction.

(II) Appointed attorneys shall be compensated for actual time and service, computed on an hourly basis and at a reasonable hourly rate in light of the qualifications and experience of the attorney and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases.

(III) Non-attorney members of the defense team, including investigators, mitigation specialists, and experts, shall be compensated at a rate that reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases.

(IV) Attorney and non-attorney members of the defense team shall be reimbursed for reasonable incidental expenses.

SEC. 422. CAPITAL PROSECUTION IMPROVEMENT GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to States for the purpose of enhancing the ability of prosecutors to effectively represent the public in State capital cases.

(b) USE OF FUNDS.—

(1) PERMITTED USES.—Grants awarded under subsection (a) shall be used for one or more of the following:

(A) To design and implement training programs for State and local prosecutors to ensure effective representation in State capital cases.

(B) To develop and implement appropriate standards and qualifications for State and local prosecutors who litigate State capital cases.

(C) To assess the performance of State and local prosecutors who litigate State capital cases, provided that such assessment shall not include participation by the assessor in the trial of any specific capital case.

(D) To identify and implement any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases.

(E) To establish a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate.

(F) To provide support and assistance to the families of murder victims.

(2) PROHIBITED USE.—Grants awarded under subsection (a) shall not be used to fund, directly or indirectly, the prosecution of specific capital cases.

SEC. 423. APPLICATIONS.

(a) IN GENERAL.—The Attorney General shall establish a process through which a State may apply for a grant under this subtitle.

(b) APPLICATION.—

(1) IN GENERAL.—A State desiring a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall contain—

(A) a certification by an appropriate officer of the State that the State authorizes capital punishment under its laws and conducts, or will conduct, prosecutions in which capital punishment is sought;

(B) a description of the communities to be served by the grant, including the nature of existing capital defender services and capital prosecution programs within such communities;

(C) a long-term statewide strategy and detailed implementation plan that—

(i) reflects consultation with the judiciary, the organized bar, and State and local prosecutor and defender organizations; and

(ii) establishes as a priority improvement in the quality of trial-level representation of indigents charged with capital crimes and trial-level prosecution of capital crimes;

(D) in the case of a State that employs a statutory procedure described in section 421(e)(1)(C), a certification by an appropriate officer of the State that the State is in substantial compliance with the requirements of the applicable State statute; and

(E) assurances that Federal funds received under this subtitle shall be—

(i) used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under this subtitle; and

(ii) allocated in accordance with section 426(b).

SEC. 424. STATE REPORTS.

(a) IN GENERAL.—Each State receiving funds under this subtitle shall submit an annual report to the Attorney General that—

(1) identifies the activities carried out with such funds; and

(2) explains how each activity complies with the terms and conditions of the grant.

(b) CAPITAL REPRESENTATION IMPROVEMENT GRANTS.—With respect to the funds provided under section 421, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) an explanation of the means by which the State—

(A) invests the responsibility for identifying and appointing qualified attorneys to represent indigents in capital cases in a program described in section 421(e)(1)(A), an entity described in section 421(e)(1)(B), or a selection committee or similar entity described in section 421(e)(1)(C); and

(B) requires such program, entity, or selection committee or similar entity, or other appropriate entity designated pursuant to the statutory procedure described in section 421(e)(1)(C), to—

(i) establish qualifications for attorneys who may be appointed to represent indigents in capital cases in accordance with section 421(e)(2)(A);

(ii) establish and maintain a roster of qualified attorneys in accordance with section 421(e)(2)(B);

(iii) assign attorneys from the roster in accordance with section 421(e)(2)(C);

(iv) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases in accordance with section 421(e)(2)(D);

(v) monitor the performance and training program attendance of appointed attorneys, and remove from the roster attorneys who fail to deliver effective representation or fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs, in accordance with section 421(e)(2)(E); and

(vi) ensure funding for the cost of competent legal representation by the defense team and outside experts selected by counsel, in accordance with section 421(e)(2)(F), including a statement setting forth—

(I) if the State employs a public defender program under section 421(e)(1)(A), the salaries received by the attorneys employed by such program and the salaries received by attorneys in the prosecutor's office in the jurisdiction;

(II) if the State employs appointed attorneys under section 421(e)(1)(B), the hourly fees received by such attorneys for actual time and service and the basis on which the hourly rate was calculated;

(III) the amounts paid to non-attorney members of the defense team, and the basis on which such amounts were determined; and

(IV) the amounts for which attorney and non-attorney members of the defense team were reimbursed for reasonable incidental expenses;

(3) in the case of a State that employs a statutory procedure described in section 421(e)(1)(C), an assessment of the extent to which the State is in compliance with the requirements of the applicable State statute; and

(4) a statement confirming that the funds have not been used to fund representation in specific capital cases or to supplant non-Federal funds.

(c) CAPITAL PROSECUTION IMPROVEMENT GRANTS.—With respect to the funds provided under section 422, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) a description of the means by which the State has—

(A) designed and established training programs for State and local prosecutors to ensure effective representation in State capital cases in accordance with section 422(b)(1)(A);

(B) developed and implemented appropriate standards and qualifications for State and local prosecutors who litigate State capital cases in accordance with section 422(b)(1)(B);

(C) assessed the performance of State and local prosecutors who litigate State capital cases in accordance with section 422(b)(1)(C);

(D) identified and implemented any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases in accordance with section 422(b)(1)(D);

(E) established a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate in accordance with section 422(b)(1)(E); and

(F) provided support and assistance to the families of murder victims; and

(3) a statement confirming that the funds have not been used to fund the prosecution of specific capital cases or to supplant non-Federal funds.

(d) PUBLIC DISCLOSURE OF ANNUAL STATE REPORTS.—The annual reports to the Attorney General submitted by any State under this section shall be made available to the public.

SEC. 425. EVALUATIONS BY INSPECTOR GENERAL AND ADMINISTRATIVE REMEDIES.

(a) EVALUATION BY INSPECTOR GENERAL.—

(1) IN GENERAL.—As soon as practicable after the end of the first fiscal year for which a State receives funds under a grant made under this subtitle, the Inspector General of the Department of Justice (in this section referred to as the ''Inspector General'') shall—

(A) submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report evaluating the compliance by the State with the terms and conditions of the grant; and

(B) if the Inspector General concludes that the State is not in compliance with the terms and conditions of the grant, specify any deficiencies and make recommendations to the Attorney General for corrective action.

(2) PRIORITY.—In conducting evaluations under this subsection, the Inspector General shall give priority to States that the Inspector General determines, based on information submitted by the State and other comments provided by any other person, to be at the highest risk of noncompliance.

(3) DETERMINATION FOR STATUTORY PROCEDURE STATES.—For each State that employs a statutory procedure described in section 421(e)(1)(C), the Inspector General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, not later than the end of the first fiscal year for which such State receives funds, a determination as to whether the State is in substantial compliance with the requirements of the applicable State statute.

(4) COMMENTS FROM PUBLIC.—The Inspector General shall receive and consider comments from any member of the public regarding any State's compliance with the terms and conditions of a grant made under this subtitle. To facilitate the receipt of such comments, the Inspector General shall maintain on its website a form that any member of the public may submit, either electronically or otherwise, providing comments. The Inspector General shall give appropriate consideration to all such public comments in reviewing reports submitted under section 424 or in establishing the priority for conducting evaluations under this section.

(b) ADMINISTRATIVE REVIEW.—

(1) COMMENT.—Upon the submission of a report under subsection (a)(1) or a determination under subsection (a)(3), the Attorney General shall provide the State with an opportunity to comment regarding the findings and conclusions of the report or the determination.

(2) CORRECTIVE ACTION PLAN.—If the Attorney General, after reviewing a report under subsection (a)(1) or a determination under subsection (a)(3), determines that a State is not in compliance with the terms and conditions of the grant, the Attorney General shall consult with the appropriate State authorities to enter into a plan for corrective action. If the State does not agree to a plan for corrective action that has been approved by the Attorney General within 90 days after the submission of the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall, within 30 days, issue guidance to the State regarding corrective action to bring the State into compliance.

(3) REPORT TO CONGRESS.—Not later than 90 days after the earlier of the implementation of a corrective action plan or the issuance of guidance under paragraph (2), the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate as to whether the State has taken corrective action and is in compliance with the terms and conditions of the grant.

(c) PENALTIES FOR NONCOMPLIANCE.—If the State fails to take the prescribed corrective action under subsection (b) and is not in compliance with the terms and conditions of the grant, the Attorney General shall discontinue all further funding under sections 421 and 422 and require the State to return the funds granted under such sections for that fiscal year. Nothing in this paragraph shall prevent a State which has been subject to penalties for noncompliance from reapplying for a grant under this subtitle in another fiscal year.

(d) PERIODIC REPORTS.—During the grant period, the Inspector General shall periodically review the compliance of each State with the terms and conditions of the grant.

(e) ADMINISTRATIVE COSTS.—Not less than 2.5 percent of the funds appropriated to carry out this subtitle for each of fiscal years 2005

through 2009 shall be made available to the Inspector General for purposes of carrying out this section. Such sums shall remain available until expended.

(f) SPECIAL RULE FOR ''STATUTORY PROCEDURE'' STATES NOT IN SUBSTANTIAL COMPLIANCE WITH STATUTORY PROCEDURES.—

(1) IN GENERAL.—In the case of a State that employs a statutory procedure described in section 421(e)(1)(C), if the Inspector General submits a determination under subsection (a)(3) that the State is not in substantial compliance with the requirements of the applicable State statute, then for the period beginning with the date on which that determination was submitted and ending on the date on which the Inspector General determines that the State is in substantial compliance with the requirements of that statute, the funds awarded under this subtitle shall be allocated solely for the uses described in section 421.

(2) RULE OF CONSTRUCTION.—The requirements of this subsection apply in addition to, and not instead of, the other requirements of this section.

SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR GRANTS.—There are authorized to be appropriated $75,000,000 for each of fiscal years 2005 through 2009 to carry out this subtitle.

(b) RESTRICTION ON USE OF FUNDS TO ENSURE EQUAL ALLOCATION.—Each State receiving a grant under this subtitle shall allocate the funds equally between the uses described in section 421 and the uses described in section 422, except as provided in section 425(f).

Subtitle C—Compensation for the Wrongfully Convicted

SEC. 431. INCREASED COMPENSATION IN FEDERAL CASES FOR THE WRONGFULLY CONVICTED.

Section 2513(e) of title 28, United States Code, is amended by striking ''exceed the sum of $5,000'' and inserting ''exceed $100,000 for each 12-month period of incarceration for any plaintiff who was unjustly sentenced to death and $50,000 for each 12-month period of incarceration for any other plaintiff''.

SEC. 432. SENSE OF CONGRESS REGARDING COMPENSATION IN STATE DEATH PENALTY CASES.

It is the sense of Congress that States should provide reasonable compensation to any person found to have been unjustly convicted of an offense against the State and sentenced to death.

The SPEAKER pro tempore. Pursuant to House Resolution 823, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 10 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on September 22, 2004, the Committee on the Judiciary met and considered this combined Victim Rights-DNA bill. It was reported voted favorably, without amendment, on a voice vote. At the time, I assured my colleagues who raised concerns about the legislation that we would work with them as well as the Department of Justice to address the concerns. I believe this amendment represents a positive compromise in our efforts to address those concerns while protecting victims and ensuring DNA testing will be available to exonerate the innocent and to identify the guilty.

In the victims' rights portion of the legislation, we worked out a number of provisions with the authors of that part of the bill and the victims' rights groups to address issues raised by the Department of Justice, the courts, and outside groups. The result was a compromise that I believe effectively addresses the needs of victims of crime to be more involved in the criminal justice process but will not result in delaying court proceedings nor infringing on the right of a defendant to a speedy trial.

To address privacy concerns raised about DNA databases, my amendment includes increased penalties for misuse of DNA analyses from $100,000 to $250,000, and the possibility of a year in prison to discourage any person who would seek to misuse DNA for personal gain.

The amendment also requires a report to Congress if the Justice Department plans to modify or supplement the core generic markers needed for compatibility with the national DNA database. This is essential to reassure those who raise civil liberty concerns that DNA samples entered into the combined database would not be used for inappropriate purposes.

The legislation authorizes a substantial amount of money to provide grants to States to eliminate their DNA backlogs. Some have raised the concern that there may be some States that do not have a substantial backlog and, thus, would not receive funds. To ensure that the States are effectively using their resources, the amendment allows a State that has no DNA backlog to apply for grants for other forensic sciences.

With regard to the provision relating to the post-conviction DNA testing, the amendment offers a compromise, as I have previously stated, between those who wish to have no time limit on the ability of convicted persons seeking DNA testing and those who insist on a limitation of time, lest convicted persons game the system by waiting until the witnesses have died or waiting until the evidence has evaporated, thus effectively preventing a retrial.

The compromise provides for a 5-year period in which there would be a rebuttable presumption in favor of granting the DNA test. After 5 years, there is a presumption against granting a test unless the court finds that the applicant was incompetent, there is newly discovered DNA evidence, denial would result in a manifest injustice, or for other good cause shown. The amendment also includes tighter language to ensure that defendants cannot make repetitive motions for relief.

Because some of my colleagues in the Department of Justice raised concern about the standard for granting a new trial, the amendment increases the standard for obtaining a new trial to require that there be compelling evidence that a new trial would result in an acquittal. This represents a compromise from the preponderance of evidence and clear and convincing evidence.

With respect to funding prosecution and defense representation in capital cases, the original bill and this amendment do not allow funds to be used directly or indirectly to fund representation in specific capital cases. Additionally, report language on the DNA provision prohibits the creation of capital resource centers.

This amendment tightens the provisions relating to the training and appointment of capital counsel. The amendment specifies that no less than 75 percent of the funds shall be used to carry out training for representation and the creation of an effective system at the trial court level. No more than 25 percent of the funds shall be used to carry out training and systems for appellate representation.

The amendment also reduces the authorization of grants to States to provide training to defense attorneys and prosecutors, and to establish a system of appointment of counsel in capital cases.

Finally, the amendment provides for notification 180 days before the destruction of biological evidence, and provides that the time period will not begin to run until any direct appeal of the conviction was complete. This will ensure that the evidence in the case is preserved to benefit both the defendant and the government if the conviction is reversed.

I believe this amendment represents a good compromise package which will help ensure justice for all. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume, and I support the amendment offered by the chairman for the reasons that he has enumerated.

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I would also make the observation, Mr. Speaker, in line with the points made by the gentleman from Wisconsin (Mr. GREEN), the gentlewoman from New York (Mrs. MALONEY), and particularly the gentleman from New York (Mr. WEINER) regarding the ability of law enforcement to identify sexual predators in the aftermath of the efforts made in New York City to reduce that backlog of DNA tests in those boxes that were sitting in that cold storage warehouse somewhere in Long Island.

I would remind those that are concerned about removing sexual predators from the streets of our communities in this country, and particularly let me remind our colleagues in government at the Department of Justice, the passage of this bill will undoubtedly lead, not to hundreds but to thousands of rapists and other sexual predators being identified. And as the gentleman from New York indicated, there is a likelihood, particularly in this category of criminals who tend to have a

high rate of recidivism, that they are committing these crimes again all over this country.

Let me suggest that this particular act, Justice for All, is and will be, if signed by the President, one of the most effective means of reducing the incidence of sexual violence in this country. We have an opportunity here to defend women and others that are victims of sexual predators. I would think that that fact alone would compel those who are in opposition to this bill, whoever they may be, to rethink their position and support it.

Let me conclude by saying again to the gentleman from Wisconsin (Mr. SENSENBRENNER), this has been a remarkable effort, and to you, Mr. Speaker. This proposal before us today, this resolution, really does reflect a good-faith effort to address concerns raised by victims organizations, lawyers, civil liberties groups, prosecutors, and all those who have an interest in justice.

I urge the passage of the manager's amendment.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 823, the previous question is ordered on the bill and on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

CONFERENCE REPORT ON H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. FRELINGHUYSEN. Mr. Speaker, pursuant to House Resolution 822, I call up the conference report on the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. TERRY). Pursuant to House Resolution 822, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 5, 2004 at page H8144.)

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FRELINGHUYSEN).

GENERAL LEAVE

Mr. FRELINGHUYSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the conference report to accompany the bill, H.R. 4850, and that I may include tabular material on the same.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FRELINGHUYSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring before you today the fiscal year 2005 District of Columbia appropriations bill. First, Mr. Speaker, let me extend my particular thanks to the gentleman from Pennsylvania (Mr. FATTAH) for all his help and wise counsel and hard work and dedication to this city and to moving this bill forward in such an expeditious manner. He has been a pleasure to work with. May I also thank the other members of my committee on both sides of the aisle for their keen interest in this bill. I thank Chairman YOUNG for his guidance and support, and especially the staff. No bill moves without the dedication of a truly dedicated staff: Joel Kaplan, our subcommittee clerk on the majority side; Clelia Alvarado who works with him; Kathy Rowan who works with Joel Kaplan; Nancy Fox, my chief of staff. And on the minority side Martha Foley, the minority clerk, and working with her, Michelle Anderson-Lee who is dedicated as chief of staff to the gentleman from Pennsylvania (Mr. FATTAH).

Mr. Speaker, this bill totals $8.3 billion in local funds, $7.2 billion of which are in operating funds and $1.1 billion in capital outlay funds, and $560 million for Federal payments to various District programs and projects. There is much to be proud of in this bill. I believe it reflects Congress's continuing commitment to helping our Nation's Capital. This is where we all work and many of us live.

Of the $560 million provided for Federal payments to various programs and projects in the District, $409 million is allocated for the District of Columbia courts, public defender services, and the Court Services and Offender Supervision Agency. These are District functions that the Federal Government assumed responsibility for in the National Capital Revitalization and Self-Government Improvement Act of 1997.

The remaining $151 million are for programs and projects that directly benefit the District. They include many city priorities sought by Mayor Williams, the city council, city residents and supported by Members of Congress and our committee.

They include $25.6 million for the very popular tuition assistance program for District college-bound students, $15 million to reimburse the District for added emergency planning and security costs related to the presence of the Federal Government in this city, $40 million for the three-prong school choice program. This is a program which helps more school children and gives more parents in this city choices about their child's education. $6 million to complete the construction of the new unified communications center, badly needed and sought by the city.

More money for the Anacostia waterfront initiative; and more dollars for the District of Columbia Water and Sewer Authority, which in fact improves the cleanliness of the Anacostia River. $6 million for a new public school library initiative. Many school libraries are lacking books and computers that work. $5 million to improve foster care in the District. More money for transportation assistance and for family literacy. And $8 million for a new bioterrorism and forensics laboratory, a long-sought facility which will expedite a lot of critical work.

These are all initiatives we can be proud to support. In particular, I want to take a minute just to highlight the continuing efforts at helping the children of the District. To help the children of the District, the bill includes $5 million for the recently established foster care improvement program; $1 million, as I said earlier, for the family literacy program; $6 million for a new library learning center initiative to be matched by the District; and $40 million for the school improvement program.

Mr. Speaker, in summary, the fiscal year 2005 District of Columbia appropriations bill is fiscally responsible, balanced and deserves bipartisan support. I am proud of our work together this year to expedite this bill so that the city can spend its own resources and better use ours.

Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. FATTAH) for his support.